

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
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Resolution WSD-001
Wildfire Safety Division
January 16, 2020

RESOLUTION

RESOLUTION WSD-001 to Establish Procedures for the Wildfire Safety Division's Review of 2020 Wildfire Mitigation Plans Pursuant to Public Utilities Code Sections 8386 and 8386.3.

SUMMARY

Pursuant to Assembly Bill 1054 (Holden 2019) the Wildfire Safety Division (Division) is to review and approve or deny the Wildfire Mitigation Plans of electrical corporations. This resolution establishes procedural rules for the Division's review and disposition of the 2020 WMPs.

BACKGROUND

Public Utilities Code Section 8386(b)¹ requires each electrical corporation to annually prepare and submit a Wildfire Mitigation Plan (WMP) to the Division for review and approval and for the Division to establish a schedule for the annual submissions as follows:

Each electrical corporation shall annually prepare and submit a wildfire mitigation plan to the division for review and approval. In calendar year 2020, and thereafter, the plan shall cover at least a three-year period. The division shall establish a schedule for the submission of subsequent comprehensive wildfire mitigation plans, which may allow for the staggering of compliance periods for each electrical corporation. In its discretion, the division may allow the annual submissions to be updates to the last approved comprehensive wildfire mitigation plan; provided, that

¹ All further references are to the Public Utilities Code unless otherwise noted.

each electrical corporation shall submit a comprehensive wildfire mitigation plan at least once every three years.

Section 8386(c) sets forth the mandatory contents of the WMPs and specifies that they shall also include any other information that the Division may require. (Section 8386(c)(20).)

Section 8386.3(a) requires the Division to approve or deny each WMP within three months of submittal and for the Commission to thereafter ratify the Division's action as follows:

The Wildfire Safety Division shall approve or deny each wildfire mitigation plan and update submitted by an electrical corporation within three months of its submission, unless the division makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met. Each electrical corporation's approved plan shall remain in effect until the division approves the electrical corporation's subsequent plan. The division shall consult with the Department of Forestry and Fire Protection on the review of each wildfire mitigation plan and update. In rendering its decision, the division shall consider comments submitted pursuant to subdivision (d) of Section 8386. Before approval, the division may require modifications of the plan. After approval by the division, the commission shall ratify the action of the division.

Section 8386(d) requires the Division to post the submittals on the Commission's website and to accept public comment on them as follows:

The Wildfire Safety Division shall post all wildfire mitigation plans and annual updates on the commission's internet website for no less than two months before the Wildfire Safety Division's decision regarding approval of the plan. The Wildfire Safety Division 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.

This resolution specifies the schedule for the electrical corporations' submittal of their WMPs, how the electrical corporations shall submit and serve the WMPs, how the public shall submit and serve comments on the WMPs, and how the Division's action on the WMPs shall be presented to the Commission for ratification.

SUBMITTAL, SERVICE, AND PUBLICATION OF WMP

The electrical corporations shall submit their 2020 WMPs to the Division by no later than February 7, 2020. Submission shall be by e-mail to the Director of the Division at WildfireSafetyDivision@cpuc.ca.gov. The electrical corporations shall concurrently serve the WMPs on the Department of Forestry and Fire Protection at Mike.Wilson@fire.ca.gov and on the service list in Rulemaking (R.) 18-10-007 consistent with the procedures set forth in Rules 1.9 and 1.10 of the Rules of Practice and Procedure.

The Division will publish all WMPs on its website, and schedule workshop(s) for presentation of and feedback on the WMPs.

SERVICE LIST FOR AND SERVICE OF COMMENTS

Any person may submit public comment on the WMPs by no later than April 7, 2020, by serving them on the Director of the Division and the service list in R.18-10-007, consistent with the procedures set forth above for service of the WMPs.

The electrical corporations must submit replies to public comments within seven (7) business days of submission by serving them on the Director of the Division and the service list in R.18-10-007 consistent with the procedures set forth above for service of the WMPs. Reply comments must address which recommendations from public comments, if any, the electrical corporations agree to incorporate into their 2020 WMPs and which recommendations, if any, the electrical corporations agree to incorporate or work towards in future plan years.

Persons who are not already on the service list in R.18-10-007 and wish to receive service of the WMPs and comments on the WMPs should contact the Process Office (ProcessOffice@cpuc.ca.gov) to request addition to the service list as "Information Only."

PRESENTATION OF DIVISION DECISION FOR COMMISSION RATIFICATION

The Division shall present its decision regarding approval of the WMP to the Commission in a draft resolution which shall be served on the service list in R.18-10-007 and concurrently published on the Commission's website.

The draft resolution is subject to public review and comment pursuant to Section 311(g)(1). Any person may comment on the draft resolution regarding WMP approvals within 20 days of its publication on the Commission's website by serving

comments on the Director of the Division at WildfireSafetyDivision@cpuc.ca.gov and on the service list in R.18-10-007.

DISCOVERY AND DOCUMENT MAINTENANCE

The following process shall be observed regarding discovery and staff data requests:

1. Any discovery or data requests and responses shall be posted on the responding electrical corporation's website in an easy to follow format that identifies what the discovery was about, what the responses were about, and links to any documents produced. The electrical corporations shall update the website weekly, with an e-mail to the service list of R.18-10-007 with the relevant link and discussion of what is new on the website. The website (or portion of webpage) shall be labeled "2020 Wildfire Mitigation Plan Discovery/Data requests" for each electrical corporation.
2. Electrical corporations must copy any data requests received from or responses to Commission staff to the e-mail address wildfiresafetydivision@cpuc.ca.gov. Requests from staff to the electrical corporations may also come from this address or from individual e-mail addresses.
3. Each electrical corporation shall send to wildfiresafetydivision@cpuc.ca.gov the name of their single point of contact for all data requests and response matters for Commission staff use.
4. Electrical corporations must respond to all data and discovery requests within 3 business days of the request. Both requests and responses shall be sent by e-mail. Exceptions to the 3-business-day requirement will require a letter to the Division Director and a strong showing of the specific reason for the delay.
5. Parties conducting discovery must first analyze the significant data that will be submitted with 2020 WMPs along with the Supplemental Data Request.² Entities submitting data requests should avoid submissions where such information is contained in the electrical corporations' WMP filings.

² See Administrative Law Judge's Ruling on Wildfire Mitigation Plan Templates and Related Material and Allowing Comment, Attachment 6, December 16, 2019.

6. All documents the electrical corporation references in its WMP plans shall be collected on the above website in an easy to follow format, with notice to the service list of the location of such documents. This will be in addition to the posting of WMPs on the Commission's website as required by Pub. Util. Code § 8386(d).

COMMENTS ON DRAFT RESOLUTION WSD-001

Section 311(g)(1) requires that a draft resolution be subject to a public review and comment period of 30 days or more prior to a vote of the Commission on the resolution. A draft of today's resolution was served on the service list in R.18-10-007 and published on the Commission's website for public comment. The following parties submitted comments on the draft resolution: California Environmental Justice Alliance (CEJA); City and County of San Francisco (CCSF); Coalition of California Utility Employees (CUE); Energy Producers and Users Coalition (EPUC); Mussey Grade Road Alliance (MGRA); Protect Our Communities (POC); Public Advocates Offices (Cal Advocates); and The Utility Reform Network (TURN). A brief summary of comments follows.

CEJA recommends the Commission reject the draft resolution for the following reasons: 1) WMPs are properly addressed within a rulemaking framework; 2) the draft resolution does not provide sufficient time to review plans in 2020; 3) the resolution does not address all outstanding issues in R.18-10-007 such as language requirements; and 4) the resolution does not set forth a process for discovery, workshops or other mechanisms to build a record.

Similarly, CCSF asserts that the 2020 WMP review timeline is too expedited and there must be a process for discovery. CCSF further requests that the Division post WMPs on the Commission's website the day after submission and that the Commission issue a press release. In addition, CCSF requests that there be a process for reply comments and that interested stakeholders have an opportunity to provide comments on any substantive proposed modifications on WMPs required by the Division. Finally, CCSF requests that the final resolution include a workshop schedule.

CUE requests that the final resolution include a date for issuance of the 2020 draft resolution approving or denying WMPs and suggests that it be May 7, 2020. EPUC states that the 60-day review timeline prior to submission of comments should include workshops, shortened discovery timelines, and an opportunity for evidentiary hearings. EPUC further recommends that the Division should, in its evaluation of WMPs, specifically evaluate and discuss rate impacts. EPUC asserts that AB 1054 creates a presumption of reasonableness for programs approved in WMPs upon issuance of the safety certificate (*see* Pub. Util. Code § 8389(e).)

MGRA, like other parties, recommends that the WMP review process include an opportunity to present evidence and challenge the contents of WMPs through submission of alternatives, and MGRA requests a discovery process. MGRA further requests that the WMP process allow more time for review. MGRA asserts that the process proposed in the draft resolution contradicts Pub. Util. Code § 1757 and proposes a future process that includes a formal Commission proceeding before submission of WMPs. MGRA is concerned that, absent approval of costs through the WMP process, the electrical corporations assume substantial risk while awaiting approval of costs in their respective general rate cases. MGRA is concerned that electrical corporations may curtail their actions until costs have been approved.

POC, similarly to MGRA, asserts that use of the resolution process violates the Commission's Rules of Practice and Procedure and is an inappropriate vehicle for evaluating WMPs. POC also requests a more protracted review process for 2020, requests the Commission consider evidentiary hearings and the submission of WMP program alternatives to "test" the WMPs, and asserts that the Commission must adopt a process for verifying that the WMPs comply with all applicable rules, regulations and standards.

Cal Advocates recommends that if the Division requires modification of WMPs, electrical corporations must file a Tier 2 Advice Letter within 30 days showing the modifications. Cal Advocates suggests that, following submission of comments on April 7, 2020, the Division allow limited reply comments from the electrical corporations to discuss which suggestions in comments the electrical corporations are willing to accept immediately and which they will work to incorporate in future WMPs. Cal Advocates recommends that Division provide for a brief extension of the statutory timeline, as allowable per Pub. Util. Code § 8386.3(a) to allow for reply comments. Finally, Cal Advocates, like others, requests a formal discovery process.

TURN recommends that the Commission require that WMPs and comments be filed in R.18-10-007 in order to create a formal record. Finally, TURN, like others, requests a formal expedited discovery process.

The Division makes the following changes and offers the following responses: 1. The resolution adopts a discovery process for 2020 WMPs as set forth herein. That process will remain in effect for future WMP years unless changed by the Division; 2. The Division will hold workshops to address 2020 WMPs. Workshops will be noticed separately from this resolution; 3. The Division adopts a limited process for the submission of reply comments by the electric corporations; 4. R.18-10-007 remains open to address outstanding issues not addressed in this resolution; 5. Nothing in Pub. Util. Code § 8386 (b) prohibits the Division from requiring electrical corporations to file

comprehensive WMPs in the years 2021 and 2022.³ All other proposed changes are denied.

IT IS SO RESOLVED.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on January 16, 2020, the following Commissioners voting favorably thereon:

/s/ ALICE STEBBINS

ALICE STEBBINS
Executive Director

MARYBEL BATJER
President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

³ Pub. Util. Code § 8386 (b) reads, in relevant part, *“In its discretion, the division may allow the annual submissions to be updates to the last approved comprehensive wildfire mitigation plan; provided, that the electrical corporation shall submit a comprehensive wildfire mitigation plan at least once every three years.”* (Emphasis added).