

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

In re Resolutions Ratifying Actions of the Wildfire Safety Division on the Electric Utility 2020 Wildfire Mitigation Plans.	Resolution WSD-002 - Resolution WSD-009
Order Instituting Rulemaking to Implement Electric Utility Wildfire Mitigation Plans Pursuant to Senate Bill 901 (2018).	Rulemaking 18-10-007 (Filed October 25, 2018)

**THE PROTECT OUR COMMUNITIES FOUNDATION
COMMENTS ON DRAFT RESOLUTIONS WSD-002 THROUGH WSD-008**

Malinda Dickenson, General Counsel
The Protect Our Communities Foundation
4452 Park Blvd. #202
San Diego, California 92116
Tel: (858) 521-8492
Email: malinda@protectourcommunities.org
Attorney for The Protect Our Communities Foundation

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Pursuant to Rule 14.5 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure (Rules), The Protect Our Communities Foundation (POC) respectfully submits the following comments on the Draft Resolutions WSD-002 through WSD-008 regarding the electrical utilities' 2020 Wildfire Mitigation Plans (2020 WMPs) by submitting them to the Wildfire Safety Division at wildfiresafetydivision@cpuc.ca.gov and serving them on the service list in R.18-10-007 as directed in the cover letter to the resolutions.¹

I. INTRODUCTION

WSD's evaluation of the 2020 WMPs resulted in Draft Guidance Resolution WSD-002, which applies to all the utilities' 2020 WMPs, and Draft Resolutions WSD-003 through WSD-009, which address the individual 2020 WMPs separately.² POC's comments address WSD-002 through WSD-008, in which WSD concludes that the 2020 WMPs submitted by San Diego Gas & Electric Company (SDG&E), Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE),

¹ Letter from Caroline Thomas Jacobs, Director, Wildfire Safety Division, to Stakeholders to the 2020 Wildfire Mitigation Plans Service List: R.18-10-007, enclosing Draft Guidance Resolution WSD-002 (May 7, 2020) (hereafter Cover letter to Draft Resolution WSD-002), p. 1-2.

² Cover letter to Draft Resolution WSD-002, p. 1.

PacifiCorp, Liberty Utilities, and Bear Valley Electric Service cannot be approved unless the utilities provide the Commission with substantial additional information which they have failed to provide to date. POC appreciates that WSD recognizes its inability to assess the effectiveness of the utilities' proposed wildfire risk reduction activities; that WSD highlights the utilities' continued risk assessment failures; that WSD-005 details SDG&E's continued failures, particularly with respect to its hardening, undergrounding, inspection, de-energization, and vegetation management practices, as well as its failures properly to evaluate risks and the costs of its programs that purport to reduce risk. POC also commends WSD for its explicit disclaimer that costs are in no way approved by virtue of any aspect of WSD's evaluation and that the utilities may be unable to obtain cost recovery if, in subsequent cost approval applications,³ they provide the same inadequate level of detail provided to date.

Instead of denying the 2020 WMPs outright, WSD requires the utilities to submit the substantial information necessary to its review and to any subsequent approval, requiring the requisite information in various forms at various times over the course of the next year. As presently drafted, however, the draft resolutions fail to spell out the consequences should the utilities fail to satisfactorily provide all the required information. The draft resolutions should also clarify and strengthen the role of the Commissioners, the Wildfire Safety Advisory Board (WSAB), the parties, and the public so as to conform the process to the applicable statutory requirements. As WSD moves forward to verify whether the utilities' supplemental information, when provided, complies with all applicable rules, regulations, and Commission standards, WSD need not (and may not) stand alone. The Commissioners, WSAB, the parties, and the public all have a statutorily-designated role in ensuring that the utilities actually mitigate and effectively prevent future wildfires.

II. BACKGROUND

Last year, in a decision addressing issues common to all of the utilities' 2019 WMPs, the Commission held that evaluating "the effectiveness of the WMPs at mitigating catastrophic wildfires...is the statutory mandate."⁴ Although the Commission found that the short initial decision time frame it faced in 2019 rendered it impossible for the Commission to evaluate adequately the effectiveness of the 2019 WMPs, the Commission ordered the utilities to do better in their 2020 WMPs.⁵

³ Pub. Util. Code, § 8386.4, subd. (b)(1), (2).

⁴ D.19-05-036, *Guidance Decision on 2019 Wildfire Mitigation Plans Submitted Pursuant to Senate Bill 901* (May 30, 2019), p. 26.

⁵ D.19-05-036, pp. 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."); *id.* at 27-29, 33-37.

After evaluating the utilities' 2020 WMPs, however, WSD correctly concludes in Draft Resolution WSD-002 (WSD-002) that the utilities' continued failure to provide rudimentary information renders WSD unable to ascertain whether the utilities are in fact effectively reducing wildfire risks.⁶

Last year, at the same time as it issued D.19-05-036, the Commission also issued decisions on the electrical corporations' individual 2019 WMPs. In D.19-05-039, the decision on SDG&E's 2019 WMP, the Commission identified numerous additional specific deficiencies in SDG&E's 2019 WMP, including with respect to SDG&E's inspection programs, and the lack of a scientific basis for its hardening, vegetation management, and de-energization practices.⁷ In Draft Resolution WSD-005 (WSD-005), WSD largely agrees with POC regarding SDG&E's continued failure to provide the statutorily-required information necessary for WSD's assessment of the efficacy and effectiveness of SDG&E's proposals. WSD-005 calls out for discussion the following continued deficiencies in SDG&E's 2020 WMP:

- 1) *Risk modeling and decision-making.* San Diego Gas and Electric Company's (SDG&E) WMP does not adequately address how SDG&E factors its modeling into decision-making, and whether and how it updates its models based on lessons learned.

⁶ Draft Resolution WSD-002, p. 17 (“The WMP Guidelines and statutory requirements require electrical corporations to prove that they are choosing mitigation measures that present the greatest utility-caused wildfire risk reduction at the least cost. Most WMPs, however, fall far short in this area. Key deficiencies are the following: • Failure to analyze each WMP initiative to determine whether it is an effective use of resources; • Lack of detail and analysis to explain how the chosen portfolio of WMP initiatives will achieve goals to reduce the scope, frequency and impact of PSPS events; • Lack of detail and discussion of how electrical corporations use risk modeling efforts to support utility decision-making to prioritize WMP initiatives; • Limited discussion of alternatives analysis for chosen WMP initiatives; • Where risk analysis is present, failure to use Risk Spend Efficiency (RSE), which is the type of analysis already adopted by the Commission for use in the Risk Assessment and Management Phase (RAMP) of utility General Rate Cases (GRCs), including in the Safety Model Assessment Proceeding (S-MAP); • Aggregation of initiatives into broader programs and reporting WMP required data at program levels instead of individually for each initiative; and • Inconsistencies and gaps in data submissions.”).

⁷ 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. 3-4 (Concluding that SDG&E has been misinterpreting General Order 165, which requires that “[l]ines shall be inspected frequently and thoroughly for the purpose of ensuring they are in good condition so as to conform with these rules.”); p. 7 (requiring SDG&E to “base its decision for pole replacements on reasonable criteria and consider ingress and egress as part of the decision”); p. 10 (requiring SDG&E to ensure its vegetation management practices are “supported by scientific evidence or other data showing that such clearance will reduce risk under wildfire conditions”); p. 12 (requiring SDG&E to consider “renewables potentially coupled with storage” for backup generation; and that “[i]f SDG&E does move forward with a Generator Grant Program, it must make a showing to the Commission that it ensures that the Generator Grant Program will not create additional significant risk for fire threat.”).

- 2) *Situational awareness and forecasting.* SDG&E’s WMP does not adequately address how it utilizes its Fire Potential Index (FPI), or whether it has fully explored early fault detection measures.
- 3) *Grid design and system hardening.* SDG&E’s WMP does not adequately identify or describe the details of its more costly planned investments, or of its decision-making process with respect to its various planned initiatives.
- 4) *Asset management and inspections.* SDG&E’s WMP does not adequately describe the details of its risk assessment process, or whether and how it considers alternatives to identified risk education initiatives.
- 5) *Vegetation management.* SDG&E’s WMP lacks details with which to evaluate its vegetation management practices, in particular whether and how its “enhanced” vegetation management practices provide incremental risk reduction benefits.
- 6) *Public Safety Power Shutoff (PSPS).* SDG&E’s WMP does not adequately describe SDG&E’s current PSPS protocols.
- 7) *Resource allocation.* SDG&E’s WMP does not adequately address the details of its resource allocation process. In particular, the WMP lacks details regarding whether and how specific mitigations or initiatives reduce the need to resort to a PSPS event.⁸

Thus, due to the utilities’ continued failure to provide basic safety and risk assessment information, as the utilities propose to spend billions of dollars on a plethora of purported risk reduction activities, Californians face yet another upcoming fire season without any confidence that the utilities are maintaining and operating their systems “in a manner that will minimize the risk of catastrophic wildfire.”⁹

III. WSD APPROPRIATELY FINDS THE UTILITIES HAVE FAILED PROPERLY TO ASSESS AND MITIGATE RISK; BUT FAILS TO ADDRESS ADEQUATELY SDG&E’S HISTORY OF FLOUTING THE COMMISSION’S RISK ASSESSMENT MANDATES.

Last year, the Commission described the utilities’ risk assessment in their 2019 WMPs as a “black box.”¹⁰ 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.18-12-014.¹¹

⁸ Draft Resolution WSD-005, p. 10-11.

⁹ Pub. Util. Code, § 8386, subd. (a).

¹⁰ D.19-05-036, p. 29, fn. 42 (“Most of the IOU WMPs justify inspection and hardening program proposals as being informed by an internal risk assessment. However, 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.”).

¹¹ 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

Other than changing their code section numbering, AB 1054 did not change the requirement that WMPs adhere to the S-MAP and RAMP decisions.¹² 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, which each require a cost-effectiveness analysis in order properly to assess risk and prioritize risk reduction measures.¹³ However, as WSD-002 correctly concludes, in their 2020 WMPs the utilities continue to fail to provide the requisite analysis of risk reduction per dollar spent.¹⁴ WSD also confirms a variety of SDG&E-specific risk assessment failures called out by POC in POC’s comments. For example, WSD concludes that SDG&E fails to link its extraordinary spending with risk

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.”).

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

¹³ Cover letter to Draft Resolution WSD-002, p. 2 (“WMPs contain an electrical corporation’s detailed plans to reduce the risk that equipment will ignite a wildfire. Electrical corporations are also required to demonstrate, through evaluation of a wildfire mitigation measure’s ‘risk-spend efficiency,’ that California electric ratepayers’ funds are only being spent on mitigation measures that are effective in reducing utility-caused wildfire risk.”); D.19-05-036, p. 28-29 (explaining that the approach in D.18-12-014 “provides a means to compare the programs against each other for effectiveness,” and including the analysis required by D.18-12-014 “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”); D.16-08-018, *Interim Decision Adopting 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) (“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.”); D.16-08-018, p. 187 (Finding of Fact 82) (“Prioritizing based on cost-effectiveness measures is an important improvement to rate cases and an important step to optimizing portfolios.”).

¹⁴ Draft Resolution WSD-002, p. 18 (“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.”).

reduction.¹⁵ WSD confirms POC’s observations that that SDG&E failed to present RSE estimates for the vast majority of its initiatives,¹⁶ including with respect to inspections,¹⁷ and that this leads to an inability to assess meaningfully the effectiveness of all of SDG&E’s proposed activities or the relationship between SDG&E’s proposed activities and their relative effectiveness.¹⁸ WSD also acknowledges, as POC described in comments, that SDG&E fails to meet the Commission’s transparency requirements,¹⁹ including that SDG&E fails adequately to describe its internal modeling²⁰

¹⁵ Cover Letter to Draft Resolution WSD-005, p. 8 (“SDG&E is planning to continue to increase its annual spending on WMP activities, increasing by 45% between 2019 actual and 2020, followed by less than 1% annual increases through 2022. This represents a large “jump” from SDG&E’s existing approach, which should be matched by a commensurate decrease in wildfire risk. SDG&E has not provided the data needed to quantitatively show the level of ignition reduction that would result from its planned mitigations, though SDG&E experiences relatively few ignitions, with fewer than 20 ignitions in 2019. SDG&E’s historical wildfire mitigation implementation, few ignitions, and mature situational awareness relative to peers raises the question of where and when SDG&E will find diminishing wildfire risk reduction returns on some investments.”); The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 19.

¹⁶ Cover Letter to Draft Resolution WSD-005, p. 8; The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 15-17.

¹⁷ Draft Resolution WSD-005, p. 31 (“SDG&E does not provide adequate details of its risk assessment process and how it considers alternatives to identify the most effective risk-reduction initiative, nor does SDG&E identify and describe the specific risk(s) it intends to mitigate with each type of inspection.”); The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 15.

¹⁸ Draft Resolution WSD-005, p. 33 (“*Deficiency (SDGE-9, Class B): SDG&E does not explain how investments in undergrounding reduce planned vegetation management spend.* SDG&E indicates in its WMP plans for significant investment in undergrounding. We anticipate that increased underground infrastructure will result in cost savings from reduced or eliminated need for vegetation management for underground infrastructure. However, SDG&E’s WMP reports no changes in vegetation management costs over the plan period (i.e. 2020-2022) and lacks detail on how its planned investment in undergrounding initiatives correlates to cost savings in other initiatives, such as vegetation management.”); The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 16.

¹⁹ Draft Resolution WSD-005, p. 27 (“SDG&E’s WMP does not adequately identify or describe the details of its more costly planned investments or of its decision-making process with respect to its various planned initiatives...the WMP does not provide an adequate description of those methods and processes nor how specifically they lead SDG&E to identify which measures to pursue, where to pursue them, and in what order to pursue them. Such detail is particularly important for significant investments, i.e., additional overhead distribution facilities and undergrounding, in order to evaluate whether SDG&E is pursuing these very costly mitigations in the most efficient manner.”); The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 18-19.

²⁰ Draft Resolution WSD-005, p. 22 (“SDG&E’s risk assessment and mapping plans consist of a primarily automated risk assessment and mapping methodology referred to as its Wildfire Risk Reduction Model (WRRM)...the WMP does not adequately address how SDG&E factors its modeling into decision-making, nor whether and how it updates its models based on lessons learned.”); Draft Resolution WSD-005, p. 24 (“SDG&E does not adequately explain how it utilizes FPI or incorporates FPI into protocols and procedures.”); The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 18.

and alternatives to its proposed wildfire risk reduction activities.²¹ SDG&E’s transparency failures violate D.18-12-014 and preclude the Commission’s ability to assess whether the utilities are adequately protecting the public from the risks posed by their electrical systems and practices.²² Moreover, for SDG&E, PG&E, and SCE, the need for transparency remains more important than ever, now that their general rate cases will be on a four-year cycle instead of a three-year cycle.²³

WSD attempts to address the utilities’ many risk assessment failures by requiring remedial correction plans (RCPs) and quarterly reports.²⁴ Although POC appreciates WSD’s enumeration of the myriad deficiencies inherent in SDG&E’s risk assessment approach, POC remains concerned that WSD has insufficiently taken into account SDG&E’s long history of evading compliance with the Commission’s RAMP and S-MAP decisions. SDG&E has never satisfactorily performed the Commission’s cost-effectiveness analysis requirements.²⁵ In the Commission’s decision on SDG&E’s 2019 WMP, the Commission ordered SDG&E to adhere to D.18-12-014 in its 2020 WMP:

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.²⁶

²¹ Draft Resolution WSD-005, p. 30 (“...the WMP does not adequately describe the details of its risk assessment process, or whether and how it considers alternatives to identified risk-reduction initiatives...as a proportion of its overall expenditures (from 2020 to 2022), SDG&E plans to spend more than twice as much as PG&E or SCE on asset management and inspections; a large portion of these planned expenditures are for drone inspections. Consideration of alternatives is not apparent from SDG&E’s WMP...the WMP lacks a detailed breakdown of the factors contributing to its specific planned additions.”); The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 19.

²² 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. 35 (RAMP and other risk assessment requirements “will provide a transparent process to ensure that the energy utilities are placing the safety of the public, and their employees, as a top priority...”).

²³ D.20-01-002, *Decision Modifying the Commission’s Rate Case Plan for Energy Utilities* (January 16, 2020), p. 36 (requiring increased transparency so as to “fulfill the Commission’s intent that underlies the entire risk-mitigation framework adopted in D.14-12-025”).

²⁴ Draft Resolution WSD-002, p. 17-19.

²⁵ D.19-05-039, p. 23-24; D.19-09-051, *Decision Addressing the Test Year 2019 General Rate Gases of San Diego Gas & Electric Company and Southern California Gas Company* (September 26, 2019), p. 22 (“Since Applicants designate both the risk and mitigation activities as RAMP-related, and re-evaluated using a risk-based approach and framework, the general result is witness testimony that states that numerous activities are in fact mitigation of key risks, often leading to a higher forecast.”).

²⁶ D.19-05-039, p. 30 (OP 12).

The Commission also ordered SDG&E to “provide better information on what spending is proposed to mitigate risks and how past spending has reduced risk per dollar spent” in its Test Year 2019 General Rate Case proceeding.²⁷ More recently, SDG&E failed to update its risk assessment analysis when it submitted its petition for modification of D.19-09-051 despite being expressly ordered in D.20-01-002 to provide RAMP related information sufficient to allow for meaningful review.²⁸

SDG&E would rather the Commission skip analysis of its 2019 RAMP Report entirely.²⁹ In fact, in the petition for modification which the Commission required SDG&E to file in D.20-01-002, SDG&E spends more time criticizing the terms of the settlement agreement approved by D.18-12-014, rather than complying with the terms approved in D.18-12-014 that SDG&E freely agreed to perform.³⁰ POC suggests that WSD should consider how to coordinate and incorporate SDG&E’s WMP risk-related deficiencies with the Commission’s ongoing formal proceedings, which require evaluation of SDG&E’s risk assessment deficiencies more generally.³¹

IV. WSD AGREES THAT THE EFFECTIVENESS OF THE UTILITIES’ WILDFIRE RISK REDUCTION ACTIVITIES CANNOT BE ASCERTAINED FROM THE 2020 WMPs; BUT THE COMMISSION SHOULD REQUIRE THE UTILITIES TO MEET THE STATORY MANDATE NOW.

In WSD-002, WSD appropriately acknowledges that, as with the utilities’ 2019 WMPs, it remains entirely unknown whether the utilities’ 2020 WMPs are effective, finding that “[a] common deficiency in 2020 WMPs relates to the practice of aggregating initiatives into broader programs and reporting of data and information at the program level, thus preventing the WSD from evaluating the efficacy of individual initiatives.”³²

²⁷ D.19-09-051, p. 762 (“We expect RAMP integration in future GRC filings to provide better information on what spending is proposed to mitigate risks and how past spending has reduced risk per dollar spent.”).

²⁸ D.20-01-002, p. 53 (“Now that this decision has designated 2022 and 2023 as additional attrition years in the 2019 GRCs and the next GRC test year... will be 2024, their petition for modification of D.19-09-051 should provide RAMP-related information and procedural proposals to [] support the Commission’s evaluation of their 2022 and 2023 attrition year proposals...”); A.17-10-007/008, The Protect Our Communities Foundation Response to Joint Petition for Modification of D.19-09-051 of Southern California Gas Company and San Diego Gas & Electric Company (May 11, 2020), p. 8-13, 19-49.

²⁹ A.17-10-007/008, The Protect Our Communities Foundation Response to Joint Petition for Modification of D.19-09-051 of Southern California Gas Company and SDG&E (May 11, 2020), p. 51.

³⁰ I.19-11-010/011, The Protect Our Communities Foundation Reply in Support of Its Proposal Regarding How This Proceeding Should Move Forward in Light of the Directives in D.20-01-002; and Comments on the Joint 2019 Risk Assessment and Mitigation Phase Report of Southern California Gas Company and San Diego Gas & Electric Company, p. 29-30.

³¹ See e.g. A.17-10-007; I.19-11-011.

³² Draft Resolution, p. 20; see also Draft Resolution, p. 21 (“First, because cost data is typically reported across programs and not individual initiatives, it is not possible for the WSD to evaluate the efficacy of each initiative.

POC appreciates that WSD-002 requires the utilities to break out their programs, and provide additional data on what the programs will cost and why they will be effective.³³ However, WSD-002 also utilizes the same Off Ramp requirement language the Commission used last year in D.19-05-036 – language which neither SDG&E nor PG&E took seriously.³⁴

Although D.19-05-036 anticipated that the Off Ramp reports would “help evaluate the effectiveness of the mitigation measures” in the 2019 WMPs³⁵ in order to meet the statutory mandate “to ensure that Wildfire Mitigation Plans actually reduce the risk and occurrence of wildfire”³⁶ and “to ensure the electrical corporations are targeting the greatest risk with effective programs,”³⁷ utilities like SDG&E and PG&E failed to identify a single concern in their Off Ramp reports – not even the concerns expressly called out by the Commission in D.19-05-036, D.19-05-039, and D.19-05-037.

Although the Commission in D.19-05-036 gave no indication that it intended for the Reports on Possible Off Ramps to be a just-trust-the-utilities exercise,³⁸ the Commission in D.20-03-004 granted PG&E’s and SDG&E’s advice letters instead of denying them,³⁹ claiming that the “process for determining effectiveness of a wildfire mitigation measure is separate from the Off-Ramp Advice Letter process” and will occur at the independent evaluation phase of the statutory process.⁴⁰

Second, when initiatives are bundled and reported together as programs, it prevents WSD from being able to assess which initiatives are effectively reducing utility wildfire risk. Consequently, this creates the challenge that ineffective elements of broad programs cannot be determined and future considerations of initiatives within programs can only be done collectively.”)

³³ Draft Resolution, p. 21 (“**Condition (Guidance-5, Class B)**”).

³⁴ 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), p. 35 (Finding of Fact 5: “PG&E’s Advice Letter does not list any programs requiring ‘Off-Ramp’ treatment.” Finding of Fact 7: “SDG&E’s Advice Letter neither states any specific concern nor proposes any modification to any WMP programs.”).

³⁵ D.19-05-036, p. 40 (Conclusion of Law 4).

³⁶ D.19-05-036, p. 3; *id.* at 26 (“the effectiveness of the WMPs at mitigating catastrophic wildfires... is the statutory mandate”).

³⁷ D.19-05-036, p. 38.

³⁸ D.19-05-036, p. 29 & fn. 42 (“A ‘trust us, we know what we are doing’ approach to risk assessment is not appropriate given recent wildfire activity.”).

³⁹ D.20-03-004, p. 36 (Conclusion of Law 6), p. 43 (OP 23).

⁴⁰ D.20-03-004, p. 37 (Conclusion of Law 4); *see also* D.20-03-004, p. 43 (OP 24) (“This decision makes no determination on the effectiveness of wildfire mitigation measures addressed or proposed in the Advice Letters...”), p. 28-30 (“While the Commission may disagree with an IOU’s or SMJU’s determination in its Off-Ramp Advice Letter of whether a mitigation measure is effective, the Commission’s process for determining effectiveness is separate from the Off-Ramp Advice Letter process. As noted earlier in this decision, Wildfire Safety Division will oversee the independent evaluation of WMPs, and metrics for determining WMPs’ effectiveness will be applied at that time... This decision has no bearing on whether the Commission or parties may have concerns about the effectiveness of SDG&E’s wildfire mitigation efforts.”); *id.* at 28-29.

The Commission’s remonstrations in D.19-05-036, followed by its leniency in approving deficient advice letters, results in confusion and an opportunity for the utilities to continue to fail to provide key and critical data and analysis going forward. POC filed an application for rehearing of D.20-03-004 on grounds that, among other things, the independent evaluation mandated by statute necessarily occurs only after the Commission’s approval of a WMP and after that WMP’s implementation and thus cannot substitute for the Commission’s effectiveness analysis.⁴¹ As the statutory language makes clear, the independent evaluator reviews and assesses the utilities’ compliance with their respective WMPs – that is, after the approved WMPs are implemented; the independent evaluators play no role in ascertaining whether more effective, less expensive measures exist that should have been proposed and implemented.⁴² In other words, the independent evaluation occurs only when – and only if – a utility’s WMP has first been approved; only then can the independent evaluator assess whether the utilities have complied with their approved plans. The statute does not envision, much less expect or allow for, any role for the independent evaluator in reviewing or assessing whether any utility’s WMP complies with the detailed requirements contained in the wildfire mitigation statutes. That job remains solely with WSD and the Commission and must occur *before* WMP approval.

POC submits that the Commission should use this opportunity to update the Off Ramp requirements so as to render them effective to serve their originally intended purpose and in compliance with the wildfire mitigation statutes. POC submits that the substantial concerns raised by the parties to this proceeding, and the best practices utilized by others such as Bear Valley, along with the Commission’s expressed concerns, should be included in the utilities’ reports,⁴³ and that this year the Commission should ensure that the utilities do not continue to flout Section 8386’s mandates.

⁴¹ R.18-10-007, The Protect Our Communities Foundation Application for Rehearing of D.20-03-004 (April 17, 2020), p. 16-22.

⁴² Pub. Util. Code, § 8386.3, subd. (c)(1) (“**Following approval of a wildfire mitigation plan**, the Wildfire Safety Division shall oversee compliance with the plan consistent with the following: (1) Three months after the end of an electrical corporation’s initial compliance period as established by the Wildfire Safety Division pursuant to subdivision (b) of Section 8386, and annually thereafter, each electrical corporation shall file with the division a report addressing its compliance with the plan during the prior calendar year. (2) (A) Before March 1, 2021, and before each March 1 thereafter, the Wildfire Safety Division, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure. (B) (i) **Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation’s compliance with its plan.** The engaged independent evaluator shall consult with, and operate under the direction of, the Wildfire Safety Division of the commission...”) (emphasis added).

⁴³ R.18-10-007, The Protect Our Communities Foundation Comments on Wildfire Mitigation Plan Templates and Related Material (January 7, 2020), p. 12-14.

Section 8386 requires WSD to review each WMP and to verify whether the utilities have complied with the statutory mandate to include wildfire risk reduction measures that will effectively “minimize the risk of catastrophic wildfire posed by” the utilities’ electrical lines and equipment,⁴⁴ and whether the utilities have included effective wildfire risk reduction measures in their WMPs.⁴⁵ The Commission has acknowledged its obligation to enforce the statutory mandate requiring the utilities to effectively “minimize the risk of catastrophic wildfire.”⁴⁶ The Commission may not unconditionally approve the utilities’ 2020 WMPs unless and until the Commission establishes that the utilities have complied with its RAMP and S-MAP decisions and that the utilities are effectively mitigating the risks of wildfire posed by the utilities’ practices and electrical lines and equipment.

The fact that the WMP Guidelines are designed to “move electrical corporations toward an effective long-term wildfire mitigation strategy”⁴⁷ does not and cannot substitute for meeting the statutory mandate of effective wildfire risk reduction. History has shown that relying on the utilities’ self-assessment and self-reports will not suffice.

V. WSD-005 CONFIRMS THAT SDG&E’S DE-ENERGIZATION, HARDENING, INSPECTIONS, & VEGETATION MANAGEMENT PRACTICES REMAIN DEFICIENT; BUT FAILS TO IMPOSE CONSEQUENCES FOR SDG&E’S CONTINUED RECALCITRANCE.

In addition to the effectiveness and risk-related deficiencies, WSD largely agrees with POC’s concerns about SDG&E’s inadequate grid design and hardening, inspections, de-energization, and vegetation management practices.⁴⁸

A. WSD Attempts to Address the Issues Raised By POC With Respect to SDG&E’s and Other Utilities’ De-Energization Practices, But Falls Short of Ensuring SDG&E and Others Will Mitigate the Public Safety Impacts Caused by PSPS Events.

WSD acknowledges the utilities’ deficiencies with respect to reducing PSPS impacts. WSD-002 correctly identifies the “Lack of discussion on PSPS impacts” as a deficiency and expresses concern that the utilities have failed to mitigate the very hardships they cause.⁴⁹

⁴⁴ Pub. Util. Code, § 8386, subd. (c).

⁴⁵ Pub. Util. Code, § 8386, subd. (a), (b), (d).

⁴⁶ D.19-05-039, p. 22; D.19-05-036, p. 3-4, 26.

⁴⁷ Draft Resolution WSD-002, p. 2.

⁴⁸ Draft Resolution WSD-005, p. 11.

⁴⁹ Draft Resolution WSD-002, p. 19-20 (“Across 2020 WMP submissions, utilities indicate goals of reducing the scope, frequency and duration of PSPS events but also indicate intentions of continuing to implement PSPS as a wildfire mitigation measure. Considering the rapid expansion of PSPS use as a wildfire mitigation measure, and the numerous hardships, inconveniences and hazards created by vast implementation, it is concerning that 2020 WMPs provide minimal to no discussion of how the chosen portfolio of initiatives will allow the utility to achieve

POC also appreciates WSD’s conclusion that “SDG&E does not provide adequate detail on its strategy to reduce scale and scope of PSPS nor protocols for re-energization after a PSPS event.”⁵⁰ WSD-005 observes that SDG&E had more Red Flag Warning day-miles in 2015 and 2016 when no PSPS events were called by SDG&E than in 2017-2019 when PSPS events increased rapidly, noting that it appears SDG&E now considers PSPS as another tool in the kit box as opposed to a last resort.⁵¹ SDG&E’s 2019 RAMP Report reveals that SDG&E considers neither Red Flag Warnings nor an extreme forecast under its internal Fire Potential Index (FPI) as conditions precedent to shutting off power.⁵² WSD’s analysis, and SDG&E’s admissions, supports POC’s continued advocacy for an absolute windspeed threshold of greater than 55 mph before a PSPS can be initiated.

After concluding that the lack of requisite information prevents a meaningful evaluation of any kind, however, WSD-002 and WSD-005 fail to ensure that SDG&E and the other utilities will actually mitigate or avoid the impacts they cause.⁵³ While POC agrees that SDG&E’s de-energization practices fail on the most fundamental levels, POC submits that SDG&E’s failures to comply with the Commission’s past directives requires an approach that makes clear the consequences should SDG&E continue to fail to comply with the Commission’s orders in the future. SDG&E has failed to address the impacts of PSPS events on the public for more than a decade.⁵⁴

its goals for reducing PSPS impacts...no 2020 WMPs discuss the relationship between various grid hardening, vegetation management, and asset management initiatives and the corresponding impacts on thresholds for initiating PSPS events.”)

⁵⁰ Draft Resolution WSD-005, p. 38; *id.* at 40 (“...the WMP does not adequately address the details of its resource allocation process..while SDG&E outlines numerous efforts to improve its ability to more effectively conduct PSPS and minimize its impacts, there is a clear gap and absence of detail on the relationship between various hardening, vegetation management, and asset management initiatives and corresponding impacts on thresholds for initiating PSPS events. Also, while SDG&E describes its resource allocation methodology in narrative, it does not provide spending data, as this planning and risk function is part of its utility capital planning process...”)

⁵¹ Draft Resolution WSD-005, p. 37-38 (SDGE “has reported an average annual increase of nearly 110% in PSPS customer hours when normalized for RFW circuit mile days, signaling the increased reliance on PSPS as a mitigation measure.”).

⁵² 2019 RAMP Report: SDG&E 1-70.

⁵³ Draft Resolution WSD-002, p. 20 (“**Condition (Guidance-4, Class B)**”).

⁵⁴ D.09-09-030, *Decision Denying Without Prejudice San Diego Gas & Electric Company’s Application to Shut Off Power During Periods of High Fire Danger* (September 10, 2009), p. 2 (“SDG&E has not met its burden to demonstrate that the benefits of shutting off power outweigh the significant costs, burdens, and risks that would be imposed on customers and communities in the areas where power is shut off”); *see also* D.19-05-039, p. 12 (requiring SDG&E to consider “renewables potentially coupled with storage” for backup generation; and that “[i]f SDG&E does move forward with a Generator Grant Program, it must make a showing to the Commission that it ensures that the Generator Grant Program will not create additional significant risk for fire threat.”), p. 30 (ordering SDG&E to consider “technologies other than fossil generation that could provide benefits with safety and clearer operation” prior to implementing a generator grant program).

Last year, SDG&E pushed ahead with its Generator Grant Program without making the showing⁵⁵ ordered by the Commission “that it ensures that the Generator Grant Program will not create additional significant risk for fire threat.”⁵⁶ The solar-plus-battery “generators” supplied by SDG&E are so small and useless that they are unlikely to lessen the increased use of “[s]tandard combustible fuel powered generators” which SDG&E admits “naturally increase fire risk in the backcountry” and which the Commission has acknowledged PSPS events incentivize.⁵⁷ As the Commission has recognized, even short PSPS events increase the risk of large scale wildfires.”⁵⁸

Additionally, WSD-005 does not, but must, address POC’s proposal that SDG&E should be required to equip all customers in Tier 3 HFTDs with whole house solar-plus-battery backup power. POC’s proposal to provide these customers with a means to insulate them from the adverse consequences of PSPS events comports with the public interest and, thus, the Commission is obliged to evaluate POC’s alternative.⁵⁹ The Commission should direct SDG&E to develop and execute a plan of action to ensure all medical baseline and access and functional needs customers are equipped with clean, whole house backup power by October 1, 2020. The relatively few vulnerable customers in SDG&E’s Tier 3 HFTDs⁶⁰ can be equipped with whole house solar-plus-battery storage in a matter of weeks if SDG&E implements a focused program that includes an explicit timetable and meaningful consequences for failure to complete it. An inclusive, well-funded, SDG&E on-bill financing program – available to owners and renters – can also ensure comprehensive, fast-track deployment of solar-plus-battery storage for affected customers in Tier 3 HFTDs at no cost to ratepayers.⁶¹

⁵⁵ 2019 RAMP Report: SDG&E 1-43, 1-44.

⁵⁶ D.19-05-039, p. 12.

⁵⁷ 2019 RAMP Report: SDG&E 1-128 (referring to generator grant program as helping customers “ride through short duration events”); D.09-09-030, p. 48, fn. 44 (“The increased number of generators increases the risk of generator-related fires during outages under the Power Shut-Off Plan as well as during any of the other 5,000 outages that occur annually.”); *see also* D.19-05-039, p. 23-24, p. 12 (requiring SDG&E to consider “renewables potentially coupled with storage” for backup generation; and that “[i]f SDG&E does move forward with a Generator Grant Program, it must make a showing to the Commission that it ensures that the Generator Grant Program will not create additional significant risk for fire threat.”).

⁵⁸ D.09-09-030, p. 54 (“...restoring power to communities already threatened by a wildfire does not mitigate the risk that while power is shut off, residents may not be able to report fires. This could delay the initial attack by firefighters and thereby increase the chance of large scale wildfires.”).

⁵⁹ *City and County of San Francisco v. Public Utilities Com.* (1971) 6 Cal.3d 119, 130 (“failure to consider lawful alternatives” is error).

⁶⁰ SDG&E, 2020 Wildfire Mitigation Plan (March 2, 2020), Appendix A, p. 21, Table 13 (Number of customers belonging to access and functional needs populations (including MBL) = 1,939.)

⁶¹ D.19-03-001, *Decision Granting Petition for Modification of Decision 09-09-047 Concerning On-Bill Financing* (March 14, 2019), Attachment A, p. 3; D.09-09-047, *Decision Approving 2010 to 2012 Energy Efficiency Portfolios and Budgets* (September 24, 2009), p. 274 (“The (EE) Strategic Plan adopted in D.08-09-040

Additionally, POC suggests that WSD eliminate the potential inconsistencies between expecting the utilities to move forward with customer resource centers while at the same time “complying with COVID-19 restrictions requiring residents to shelter-in-place [and] practice social distancing.”⁶² If CRCs are utilized in the COVID-19 era, POC submits that the CRCs should be located at schools with microgrid capabilities. Schools are equipped with kitchens, bathrooms, showers, and gymnasiums, and should be capable of accommodating many people overnight while also accommodating COVID-19 spacing protocols. Schools are also classified as critical facilities, and are therefore eligible for generous SGIP incentive payments intended for battery storage at critical facilities located in HFTDs.⁶³ Virtually all IOU customers are located within a 30-minute drive of the nearest school; and numerous schools in California, such as the Santa Rita School District in Salinas, are already equipped with solar and battery storage to enable islanding from the grid to serve as community centers during outages.⁶⁴

B. WSD-005 Attempts to Address the Issues Raised by POC with Respect to SDG&E’s Hardening and Undergrounding Proposals.

In WSD-005, WSD acknowledges that SDG&E fails to address the relationships between its hardening practices and its other proposed mitigation measures.⁶⁵ WSD-005 also agrees with POC that SDG&E’s undergrounding and hardening activities lack sufficient information to allow for meaningful review.⁶⁶ POC looks forward to participating in WSD’s review of SDG&E’s hardening and undergrounding practices going forward, after the utilities comply with WSD’s directives to submit the requisite information needed for WSD to conduct appropriate oversight.

identified the need for financing solutions in both the residential and commercial sectors.”); *id.* at 278 (“SDG&E reports it is investigating partnering with a financial institution to more directly offer residential retrofit financing, allowing the lending partner to absorb any risk and transaction costs. . .”).

⁶² Draft Resolution WSD-002, p. 6

⁶³ D.20-01-021.

⁶⁴ Businesswire, *Innovative Solar Plus Sharp SmartStorage® Microgrids Installed in Santa Rita Union School District* (May 14, 2018), available at <https://www.businesswire.com/news/home/20180514006223/en/Innovative-Solar-Sharp-SmartStorage%C2%AE-Microgrids-Installed-Santa>.

⁶⁵ Resolution WSD-005, p. 8 (“SDG&E also did not report in detail how initiatives such as undergrounding will enable it to reduce spend on initiatives that could be scaled back as a result—e.g., vegetation management for circuits recently undergrounded.”).

⁶⁶ Draft Resolution WSD-005, p. 27-29; The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 30.

C. WSD-005 Attempts to Address POC’s Concerns about SDG&E’s Vegetation Management Practices and Acknowledges SDG&E’s Disregard for the Commission’s Orders, But Identifies No Consequences.

POC agrees with the conclusion in WSD-005 that “[w]ithout the ability to understand or even observe an incremental benefit of this increased clearance, it will be difficult to determine the effectiveness of” a 25-foot clearance.⁶⁷ POC appreciates WSD’s acknowledgment that SDG&E has failed to comply with the Commission’s express orders.⁶⁸ However, POC remains concerned that failing to provide any consequences for SDG&E’s disregard for the Commission’s express instructions sends the wrong message about the consequences of the utilities’ intransigence going forward.

VI. WSD-005 APPROPRIATELY DISCLAIMS ANY COST APPROVAL AND HIGHLIGHTS WHAT APPEARS TO BE EXCESSIVE, REDUNDANT AND UNNECESSARY SPENDING.

POC appreciates that WSD appropriately disclaims any cost approval⁶⁹ and recognizes that, because the “numerous WMP initiatives have apparent overlap or potential redundancy, it is imperative that utilities provide such data to validate the need for and effectiveness of additional programs.”⁷⁰ POC also appreciates the Commission’s warning that continuing to lump all costs together is likely to result in no reimbursement by ratepayers.⁷¹ WSD’s draft resolutions also track POC’s concerns that SDG&E plans massive spending on projects such as drone inspections and undergrounding, highlighting that SDG&E “plans to allocate twice the percentage of its budget to asset management and inspection initiatives, despite having more underground circuit miles, as a percentage of total circuit miles, compared to PG&E and SCE”⁷² and 25 times more than it proposed last year for undergrounding.⁷³

⁶⁷ Draft Resolution WSD-005, p. 34-35.

⁶⁸ Draft Resolution WSD-005, p. 34-35 (“Specifically, SDG&E does not detail proposed guidelines for where such a clearance is both feasible and necessary, or scientific evidence or other data showing that such clearance will reduce wildfire risk, as directed in our decision approving SDG&E’s 2019 WMP.”).

⁶⁹ Cover letter to Draft Resolution WSD-002, p. 3 (“Nothing in this Resolution should be construed as approval of the costs associated with the WMP mitigation efforts. As set forth in Public Utilities Code §8386(g), and confirmed by Decision (D.) 19-05-036,1 The Commission will consider recovery of costs related to WMPs in the electrical corporations’ General Rate Cases.”).

⁷⁰ Draft Resolution WSD-002, p. 22.

⁷¹ Draft Resolution WSD-002, p. 22 (“It is not clear how electrical corporations are tracking their WMP activities in memorandum accounts if they do not budget for them by type of initiative. The Commission will scrutinize electrical corporations’ memorandum accounts for WMP carefully, and if all costs are simply lumped together or included in general operations and maintenance accounts, electrical corporations risk failing to provide entitlement to cost recovery.”).

⁷² Draft Resolution WSD-005, p. 41; Draft Resolution WSD-005, p. 30 (“SDG&E plans to spend more than twice as much as PG&E or SCE on asset management and inspections; a large portion of these planned expenditures are for drone inspections. Consideration of alternatives is not apparent from SDG&E’s WMP.”).

SDG&E now has more than enough information to put its shareholders on notice that wasting hundreds of millions of dollars on redundant activities that have never been established as effective, and incurring exorbitant costs that have never been approved, may likely result in rate recovery exclusions.⁷⁴ POC looks forward to meaningful RCPs and quarterly reports,⁷⁵ subject to POC’s comments below that the additional information required must be subject to Commission, WSAB, and stakeholder oversight.

VII. THE DRAFT RESOLUTIONS SHOULD BE REVISED TO CONFORM WITH AB 1054’S REQUIREMENTS & THE ADDITIONAL OVERSIGHT AB 1054 INTENDED.

The statutory wildfire risk reduction mandate found in Section 8386(a) has not changed since the 2016 enactment of SB 1028, the legislation that initially mandated the utilities to prepare and submit wildfire mitigation plans, or 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.”⁷⁶ 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,”⁷⁷ kept SB 1028’s wildfire risk reduction mandate intact.⁷⁸ SB 901 mandated nineteen items be included in WMPs; replaced an audit required by SB 1028 with a post-approval independent evaluation process;⁷⁹ and added the requirement that the Commission “verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.”⁸⁰

⁷³ Draft Resolution WSD-005, p. 41 (“Appendix B, Figure 3.6a shows that SDG&E allocates nearly 30% of its total planned budget on undergrounding. This is especially noteworthy when considering that compared to PG&E and SCE, SDG&E currently has the largest share of its total system underground, yet it plans to allocate significantly more resources (as a fraction of total expenditures) on more undergrounding. This undergrounding work is planned to ramp up over the plan period with an average annual spend of approximately \$125 million – about 25 times more than SDG&E spent on undergrounding as part of its 2019 WMP (\$5 million).”).

⁷⁴ Draft Resolution WSD-005, p. 4 (1) (SDG&E’s proposes to spend \$1.34 billion from 2020-2022: \$444 million in 2020, \$445 million in 2021, and \$448 million in 2022”).

⁷⁵ Draft Resolution WSD-002, p. 22 (“Condition (Guidance-6, Class B): In its first quarterly report, each electrical corporation shall: i) Clearly identify each initiative in Section 5.3 of its WMP as “Standard Operations” or “Augmented Wildfire Operations;” ii) Report WMP required data for all Standard Operations and Augmented Wildfire Operations; iii) Confirm that it is budgeting and accounting for WMP activity of each initiative; and iv) Include a “ledger” of all subaccounts that show a breakdown by initiative.”).

⁷⁶ Sen. Bill No. 1028 (2015-2016 Reg. Sess.) § 1.

⁷⁷ Sen. Floor Analysis of Sen. Bill No. 901 (2017-2018 Reg. Sess.) August 31, 2018, p. 13.

⁷⁸ 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).

⁷⁹ Sen. Bill No. 901 (2017-2018 Reg. Sess.) § 38 (Section 8386, subd. (h)).

⁸⁰ Sen. Bill No. 901 (2017-2018 Reg. Sess.) § 38, emphasis added; *see also* D.19-05-036, p. 13.

AB 1054 was intended to “create additional safety oversight,”⁸¹ and left intact the statutory risk reduction mandate codified in both SB 1028 and SB 901. AB 1054 amended SB 901 by requiring the establishment of the Wildfire Safety Division.⁸² But by designating WSD to act as the initial body to “verify that the plan complies with all applicable rules, regulations, and standards,” AB 1054 did not otherwise change SB 901’s verification requirement.⁸³ AB 1054 moved the independent evaluation requirement from Section 8386 to Section 8386.3 and identified WSD as the body with oversight over the independent evaluation process, but did not modify the structure of the independent evaluation as a separate and distinct statutory process from the review, content, verification, and approval processes contained in SB 901.⁸⁴

A. The Commission Should Make An Explicit Finding That It Cannot Unconditionally Approve the 2020 WMPs at This Time Because the Utilities Have Failed to Provide the Requisite Information to Enable the Commission to Verify the Plans’ Compliance.

WSD-002 states that “AB 1054 also requires the WSD to review and approve, deny or approve with conditions the electrical corporations’ WMPs, with Commission ratification to follow thereafter.”⁸⁵ In fact, the language of AB 1054 provides WSD with three options: (1) approve, (2) deny, or (3) “make a written determination” that it cannot do so.⁸⁶ In WSD-002 through WSD-008, WSD verifies that the 2020 WMPs do not comply “with all applicable rules, regulations, and standards, as appropriate.”⁸⁷ Thus, based on the findings made in the resolutions,⁸⁸ the Commission has two remaining options under AB 1054. The Commission may either deny the 2020 WMPs, or it may make a written determination that the three-month deadline cannot be met because the utilities have failed to provide the information as detailed in WSD-002 through WSD-008 and the associated Appendices.

⁸¹ Assem. Floor Analysis of Assem. Bill No. 1054 (2019-2020 Reg. Sess.) July 11, 2019, p. 1.

⁸² Pub. Util. Code, § 326, subd. (a) (“By January 1, 2020, the commission shall establish the Wildfire Safety Division within the commission...”).

⁸³ Assem. Bill No. 1054 (2019-2020 Reg. Sess.), § 17 (“...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.”).

⁸⁴ Pub. Util. Code, § 8386.3, subd. (b).

⁸⁵ Draft Resolution WSD-002, p. 2.

⁸⁶ Pub. Util. Code, § 8386.3, subd. (a) (“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.”).

⁸⁷ Pub. Util. Code, § 8386, subd. (d).

⁸⁸ The arguments herein do not extend to Trans Bay Cable, LLC and Horizon West Transmission, LLC, because those companies’ 2020 WMPs are proposed to be approved outright in WSD-009.

The language contained in WSD-002 through WSD-008 suggests that WSD is not inclined to deny the 2020 WMPs at this time; and the resolutions can instead be interpreted as a written determination that the Commission cannot make the three-month deadline because the utilities have failed to provide the information necessary to the requisite evaluation of the 2020 WMPs. POC suggests that the Commission should add a finding to WSD-002 which states explicitly that the Commission is unable to “approve or deny” the 2020 WMPs unless and until it has ascertained that the conditions set forth in WSD-002 through WSD-008 and the associated Appendices have been satisfied.

B. WSD-002 Should Clarify the Process for Commission Ratification of, and WSAB and Party Review of WSD’s Verification of the Utilities’ WMP Compliance With All Applicable Rules, Regulations, and Standards.

WSD-002 should be clarified to provide that the WSAB and the parties should be involved in the ongoing process required by WSD-002 through WSD-008. Although WSD-002 states that “AB 1054 specifically requires the WSAB to develop and make recommendations related to the metrics used to evaluate WMPs in 2021 and beyond,”⁸⁹ AB 1054 also mandates that the Wildfire Safety Advisory Board “[d]evelop and make recommendations related to the contents of the wildfire mitigation plans pursuant to Chapter 6 (commencing with Section 8385) of Division 4.1.”⁹⁰ Thus, the WSAB should be involved in the ongoing verification process required by Section 8386(d).

Section 8386(d), as well as principles of due process,⁹¹ requires that the parties also be included in the ongoing verification process.⁹² Including the parties in continued review should extend beyond the Off Ramp comment period⁹³ to the review of the required remedial compliance plan,⁹⁴ the required quarterly reports,⁹⁵ as well as to the review of the information required for inclusion in next year’s WMP;⁹⁶ and will assist WSD to verify that the utilities’ WMPs fully comply with all applicable rules, regulations, and standards, and to evaluate the cost-effectiveness and efficacy of alternatives.⁹⁷

⁸⁹ Draft Resolution WSD-002, p. 2.

⁹⁰ Pub. Util. Code, § 326.2, subd. (b).

⁹¹ See *Manufactured Home Communities, Inc. v. City of San Louis Obispo* (2008) 167 Cal.App.4th 705, 711.

⁹² Pub. Util. Code, § 8386, subd. (d).

⁹³ Draft Resolution WSD-002, p. 29.

⁹⁴ Draft Resolution WSD-002, p. 15 (“Class A deficiencies are of the highest concern and require an electrical corporation to develop and submit to the WSD, within 45 days of Commission ratification of the WMP Resolutions, a remedial compliance plan (RCP) to resolve the identified deficiency.”).

⁹⁵ Draft Resolution WSD-002, p. 16.

⁹⁶ Draft Resolution WSD-002, p. 16 (“Finally, Class C deficiencies require the electrical corporation to submit additional detail and information or otherwise come into compliance in its 2021 annual WMP update.”).

⁹⁷ *City and County of San Francisco v. Public Utilities Com.* (1971) 6 Cal.3d 119, 130 (holding that “failure to consider lawful alternatives” is error).

C. WSD-002 Should Clarify the Consequences if the Utilities Fail, Yet Again, to Comply with the Commission’s WMP Directives.

WSD appropriately recognizes that “[d]evelopment and execution of WMPs are essential to reduce utility wildfire related risk.”⁹⁸ WSD appropriately acknowledges as well its present inability to verify the utilities’ 2020 WMPs comply with the Commission’s statutory mandates, due to the utilities’ failure to provide critical information necessary to WSD’s review.⁹⁹ Although “WSD expects SDG&E to meet the commitments in its 2020 WMP and fully comply with the conditions listed in Appendix A of its associated Resolution to ensure it is driving meaningful reduction of utility-related wildfire risk within its service territory,”¹⁰⁰ the language in WSD-002 and WSD-005 fail to justify the expectation that SDG&E will comply or to provide a mechanism ensuring compliance. To the contrary, as discussed above, WSD identifies repeated failures by the utilities to comply with the Commission’s repeated orders, a list which comprises a mere fraction of the utilities’ history of non-compliance.

Although WSD-002 states that “[c]ontinued use of equivocating language may result in denial of future WMPs,”¹⁰¹ the resolutions should be explicit about the consequences the utilities will face if they continue to fail to comply with the Commission’s myriad continuing directives. The large electrical utilities – and SDG&E in particular – have been interpreting the Commission’s express directives regarding risk assessment and risk mitigation as optional. Section 8386 delineates a clear mandate for the Commission to direct the utilities to ensure safety and reduce wildfires in California. None of the duties or requirements detailed in Section 8386, in SB 1028 or in SB 901 are optional – the Commission must enforce the safety and effectiveness requirements set forth in the statutes. Allowing the utilities to continue to fail to comply with the Commission’s orders and with Section 8386’s statutory mandate without consequence should be discontinued.¹⁰² The Commission’s constitutional and statutory duties oblige the Commission – and WSD -- to demand that the utilities adhere to these fundamental safety laws and to the Commission’s own directives.¹⁰³

⁹⁸ Draft Resolution WSD-002, p. 16.

⁹⁹ Draft Resolution WSD-002, p. 23 (“Without sufficient details, none of these terms provide the WSD or the public with a measurable, quantifiable, and verifiable goal against which electrical corporations could be held.”); p. 15 (“A conditional approval identifies each missing or inadequate element in the WMP and requires specific action to remedy the problem according to particular timelines.”).

¹⁰⁰ Cover Letter to Draft Resolution WSD-005, p. 9.

¹⁰¹ Draft Resolution WSD-002, p. 24.

¹⁰² *Southern California Gas Co. v. Public Utilities Com.* (1979) 24 Cal.3d 653, 659 (Commission lacks authority to contradict or disregard specific legislative directives).

¹⁰³ Pub. Util. Code, § 2102; I.19-06-014, Order Instituting Investigation on the Commission’s Own Motion to Determine Whether Southern California Gas Company’s and Sempra Energy’s Organizational Culture and

VIII. CONCLUSION

WSD’s evaluation of the 2020 WMPs appropriately identifies myriad deficiencies in the utilities’ 2020 WMPs. WSD-002 should be revised so as to clarify that the Commission, WSAB, the parties, and the public will continue to be involved in the ongoing processes it outlines, as required by law. The consequences for continued utility failure to comply with Commission directives – particularly in SDG&E’s case – should be clearly conveyed. The Commission should also take the opportunity to improve upon its Off Ramp reporting requirements, so that this year other utilities do not follow SDG&E’s and PG&E’s lead in failing to report any concerns at all. Finally, the Commission should address alternatives to the utilities’ proposals which are in the public interest; and should direct SDG&E to develop and execute a plan of action to ensure all medical baseline and access and functional needs customers in Tier 3 HFTDs are equipped with clean, whole house backup power by October 1, 2020.

/s/ Malinda Dickenson

Malinda Dickenson, General Counsel

The Protect Our Communities Foundation

4452 Park Blvd. #202

San Diego, California 92116

Tel: (858) 521-8492

Email: malinda@protectourcommunities.org

Attorney for The Protect Our Communities Foundation

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Governance Prioritize Safety (U904G) (June 27, 2019), p. 7-8 (“the Commission must actively, not passively, supervise and regulate public utilities”).

APPENDIX

Draft Resolution WSD-002 Findings

1. On March 19, 2020, the Governor of California signed Executive Order N-33-20 requiring Californians to heed the order of the California State Public Health Officer and the Director of the California Department of Public Health that all individuals living in California stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, in order to address the public health emergency presented by the COVID-19 disease.
2. There was inadequate time to incorporate party comments on the WMP Guidelines and supporting material served with Administrative Law Judge Thomas' December 16, 2019 ruling given the short time between issuance of the materials and the February 7, 2020 deadline for 2020 WMP submission.
3. The binary nature of maturity model scoring means that if an electrical corporation currently lacks one element of a multi-part requirement, the electrical corporation is deemed to lack maturity on the entire requirement.
4. Use of the maturity model in 2020 allows the WSD to establish a baseline in order to track improvement in wildfire mitigation programs over time. The maturity model should be used primarily to assess an electrical corporation's progress over time.
5. Given that the maturity model is new, further refinement and calibration of the scoring requirements may be necessary.
6. The effectiveness of wildfire mitigation activities contained in electrical corporations' WMPs cannot be determined using "program targets," e.g., number of miles of covered conductor installed or number of trees trimmed.
7. Program targets do not meet the requirements of Public Utilities Code 8386 to establish metrics to evaluate WMP performance.
8. A conditional approval of a WMP identifies each missing or inadequate element in the WMP and requires specific action to remedy the problem according to particular timelines. The 2020 WMP Resolutions for each electrical corporation contain a set of "Deficiencies" and associated "Conditions" to remedy those deficiencies. Each deficiency is categorized into one of the following categories, with Class A being the most serious:
 - Class A – aspects of the WMP are lacking or flawed;
 - Class B – insufficient detail or justification provided in WMP;

- Class C – gaps in baseline or historical data, as required in 2020 WMP Guidelines.

9. Class A deficiencies are of the highest concern and require an electrical corporation to develop and submit to WSD, within 45 days of Commission ratification of WMP Resolutions, an RCP to resolve the identified deficiency. An RCP must present all missing information and/or articulate the electrical corporation’s plan, including proposed timeline, to bring the electrical corporation’s WMP into compliance.

10. Class B deficiencies are of medium concern and require reporting on a quarterly basis by the electrical corporation to provide missing data or update its progress. This quarterly reporting is in addition to Tier 1 advice letters filings mandated in Public Utilities Code § 8389(e)(7).

11. Class C deficiencies require the electrical corporation to submit additional detail and information or otherwise come into compliance in its 2021 annual WMP update.

12. Each of the following electrical corporations’ WMPs contain the Guidance Deficiencies set forth in Appendix A: PG&E, SCE, SDG&E, PacifiCorp, Liberty and Bear Valley.

13. WSD has reviewed the 2020 WMP submissions for compliance with the ordering paragraphs contained in the Commission’s 2019 decisions on each electrical corporation’s 2019 WMP. Each 2019 ordering paragraph has either been addressed in the electrical corporation’s 2020 WMP or is the subject of Conditions in this Resolution or the individual Resolutions being issued this year.

14. It is essential that there be a process for modifying, reducing, increasing, or ending mitigation measures that are not working, or otherwise require modification. The process must address the concerns identified by WSD, the Wildfire Safety Advisory Board (WSAB), the Commission, and the parties to R.18-10-007.

15. Pub. Util. Code § 8386.3(a) requires WSD to consult with CAL FIRE in reviewing electrical corporations’ 2020 WMPs. The Commission and CAL FIRE have a memorandum of understanding in place to facilitate this consultation (Pub. Util. Code § 8386.5). The Commission and WSD have met these requirements, but neither this Resolution nor the Resolutions on the individual WMPs purport to speak for CAL FIRE.

16. WSD is required by Pub. Util. Code § 8386(b) to 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 WSD may allow the annual submissions to be updates to the last approved comprehensive wildfire mitigation plan; provided, that each electrical corporation shall submit a comprehensive wildfire mitigation plan at least once every three years.

17. Trans Bay Cable, LLC and Horizon West Transmission are differently situated to the other electrical corporations, having minimal ignition risk due to their locations and footprints. WSD will issue guidance to Trans Bay Cable and Horizon West Transmission on the required contents of 2021 WMP updates. The WSD will also consider a more streamlined data and submission process for these companies in advance of their next comprehensive WMP filing in 2023.

18. WSD will promptly provide the information required by the resolutions to remedy the deficiencies in the 2020 WMPs that it receives from the utilities to the WSAB, so that the WSAB may develop and make recommendations and advise WSD, as required by Section 326.2(b), before WSD makes any determination on the results of its ongoing verification process.

19. The stakeholders will have the opportunity to review, comment, present evidence, and rebut each document required by the resolutions to remedy the deficiencies in the 2020 WMPs.

20. After duly considering the recommendations by the WSAB and the stakeholders, WSD will provide the results of its ongoing verification process to the Commission so that the Commission may decide whether to ratify the action of the WSD in accordance with Section 8386(a) and the Commissions statutory and constitutional obligations to actively regulate the utilities.

21. The consequence of any failure to provide the required information is denial of the utility's 2020 WMP and denial of any cost recovery associated with implementation thereof.

22. For the reasons set forth in Resolutions WSD-002 through WSD-008, WSD hereby determines in writing pursuant to Section 8386.3(a) that WSD is unable to approve the 2020 WMPs of the California electrical corporations within three months of their submission.

Draft Resolution WSD-005 Findings

1. AB 1054 and Commission Resolution WSD-001 require SDG&E to file a WMP for 2020 that conforms with Pub. Util. Code § 8386(c) and guidance provided by the WSD and served on the R.18-10-007 service list on December 16, 2019 by ALJ ruling.
2. The WMPs were reviewed and acted upon with due consideration given to comments received from governmental agencies, the WSAB, members of the public, and all other relevant stakeholders.
3. The WMPs were reviewed and acted upon in compliance with all relevant requirements of state law.
4. SDG&E's WMP contains all the elements required by AB 1054, Pub. Util. Code § 8386(c), but does not otherwise comply with the statute's terms.
5. SDG&E has satisfied the requirements of Pub. Util. Code § 8386(c) and the WMP Guidelines, except as set forth in Resolution WSD-002 and herein.
6. Appendix A contains findings regarding deficiencies in SDG&E's WMP.
7. SDG&E is directed to develop and execute a plan of action to ensure all medical baseline and access and functional needs customers in Tier 3 HFTDs are equipped with clean, whole house backup power by October 1, 2020.