

03/24/2021

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California Public Utilities Commission  
505 Van Ness Avenue  
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**SUBJECT:** Southern California Edison's Comments on the Draft – Wildfire Safety Division 2021 Guidance on Engagement of Independent Evaluators Pursuant to Public Utilities Code §8386.3

Dear Director Thomas Jacobs,

Southern California Edison Company (SCE) hereby submits its comments on the Wildfire Safety Division's (WSD) Draft 2021 Guidance on Engagement of Independent Evaluators Pursuant to Public Utilities Code §8386.3 (Draft Guidance) issued on February 22, 2021.

SCE appreciates WSD's efforts to provide guidance for the IE reviews and looks forward to continuing to work with WSD to refine the guidance.

### **3. INTRODUCTION**

In order to help ensure consistency and facilitate comparability between IE reports, SCE encourages WSD to provide as much upfront guidance as possible regarding the scope of work, required deliverables and associated schedule, report templates and other aspects related to the IE review. Having this direction will help ensure the IE Reviews are conducted in an efficient and effective manner while minimizing the costs to customers<sup>1</sup> and the disruption to the electrical corporations' staff working to mitigate potential wildfire risk. SCE's comments focus on the following main areas:

- Additional guidance that should be added to the Draft Guidance.
- Modifications to the Scope of Work (SOW) attached to the Draft Guidance to remove tasks that would inappropriately go beyond evaluating Wildfire Mitigation Plan (WMP) compliance or are otherwise not necessary.
- WSD approval of IE invoices to help reduce potential concerns about impartiality associated with the electrical corporations being responsible for paying the IE.
- Timing of future IE List issuances to help ensure IEs have sufficient time to conduct their review.

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<sup>1</sup> Pursuant to Public Utilities Code §8386.3(c)(3) the CPUC "shall authorize the electrical corporation to recover in rates the costs of the independent evaluator."

#### **4. ADDITIONAL GUIDANCE**

While WSD's Draft Guidance is a good start, it should be expanded to help facilitate the engagement of an IE; help ensure the IE reviews and reports meet WSD's expectations; and help maintain the IEs independence. The Draft Guidance should be expanded to include, but not be limited to, the following:

- *Deliverables and Schedule:* While the final IE Report due date is set by statute, the Draft Guidance should specify all deliverables that are required and the specific due dates for each.
- *Report Template:* To help ensure the IE Reviews are consistently performed, and the reports are easily comparable, WSD should provide a standard report template to be used by each of the IEs.
- *Auditing Standard:* Since the IE review is a compliance audit, the review should be conducted pursuant to a generally accepted auditing standard<sup>2</sup> such as the Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller of the United States or the Generally Accepted Auditing Standards (GAAS) of the American Institute of Certified Public Accountants. Including a specific auditing standard to be used by all of the IEs will also help ensure consistency in auditing approach between IEs.
- *Substantially Compliant Standard:* The Draft Guidance should clearly specify that the standard for WMP compliance is "substantial compliance." While PU Code §8386.3(2) does not explicitly define what it means "to review and assess the electrical corporation's compliance with its plan," the IE should be verifying that the electrical corporation has substantially complied with the goals set forth for each of the initiatives or activities contained in its approved WMP.<sup>3</sup> That is consistent with Resolution WSD-12's explicit determination that the IE's assessment should be limited to "whether each electrical corporation *substantially* complie[d] with its WMP during the prior compliance period."<sup>4</sup>
- *Auditing Approach:* In order to help ensure consistent IE reviews, WSD should set forth the auditing approach that should be used for the various types of WMP activities. This approach could include, but not limited to, sampling methods and sample sizes for high volume activities (e.g., inspections, tree removals) and review methods such as field verification verses records review or combination of both.

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<sup>2</sup> Auditing standards provide minimum guidance for the auditor that helps determine the extent of audit steps and procedures that should be applied to fulfill the audit objective. They are the criteria or yardsticks against which the quality of the audit results is evaluated.

<sup>3</sup> In WSD's Wildfire Mitigation Plan Compliance Process dated November 2020 and approved in Resolution WSD-012, WSD states that one of their objectives is "assessing electrical corporations' implementation of initiatives identified in their approved WMPs." The footnote goes on to state "An initiative is a commitment pertaining to a wildfire risk mitigation activity in an electrical corporation's WMP used to measure performance and compliance." See page 3.

<sup>4</sup> Resolution WSD-12 at p. 7 (emphasis added).

- *Draft Report Review by Electrical Corporations:* In order to help ensure the accuracy of the IE review, the electrical corporations should have an opportunity to perform a factual review of the draft report to help ensure the IE has correctly captured the information provided. This type of factual review is typical in other compliance audits performed by the CPUC.<sup>5</sup>
- *WSD Approvals Required:* Since WSD is directing the IE work, but the electrical corporations are contracting with the IE, the Draft Guidance should set forth specifically which actions, tasks, and deliverables WSD must approve and the process the IE or electrical corporation will use to obtain such approval. This may include, but should not be limited to, work plan, draft and final reports, changes in scope, costs or personnel, etc.
- *Final Audit Report Response Process:* The Draft Guidance should also include the process by which the electrical corporations can provide a formal response to the IE Final Report.

## **5. MODIFICATIONS TO THE SCOPE OF WORK**

This is the first opportunity parties have been provided to comment on the scope of work for the IE Review. While parties were able to provide comments on the proposed IE List Criteria in May 2020, WSD did not issue the scope of work for comment prior to including it in RFQ No. 20NC0427 issued on October 21, 2020 and attaching it to the Draft Guidance.<sup>6</sup> Below are modifications that should be made to the SOW to remove tasks that inappropriately would go beyond verifying WMP compliance.<sup>7</sup>

### ***Assessing safety compliance and performing safety should be removed from the SOW***

There are multiple references throughout the SOW that describe tasks related to assessing safety or performing safety inspections. WSD has not defined what it means by assessing safety compliance or safety inspections. For purposes of these comments, SCE has assumed that WSD means assessing utility employee or contractor safety while performing work related to the WMP. These tasks are outside the scope of the IE review and should be removed from the SOW.

While SCE agrees assessing employee and contractor safety is within the purview of the CPUC (either WSD or SED), it is beyond the scope required for review and assessment of an electric corporation's compliance with its WMP. In addition, since the

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<sup>5</sup> Examples of CPUC audits where the utility was provided an opportunity to review and comment on the draft report, include, but are not limited to, the bi-annual Affiliate Transactions Rule audit conducted by the State Controller's Office on behalf of the Energy Division and the annual Energy Efficiency Audit conducted by the CPUC Utility Audits, Risk and Compliance Division.

<sup>6</sup> Guidance Document, Attachment 2 RFQ 20NC0427, page 5

<sup>7</sup> SCE reserves the right to identify additional potential proposed modifications to the SOW in the future, if warranted based on experience with the first IE Review for the 2020 WMP.

IE will be reviewing completed work from the prior calendar year for WMP compliance purposes, there should be no instances where the IE will be inspecting work in progress.

***Assessing compliance with GO 95 and other CPUC rules and regulations should be removed from the SOW***

While WSD has the responsibility to ensure that the utilities facilities are in compliance with all of the CPUC regulations as they relate to mitigating wildfire risk, the IE's responsibility is very specific to verifying compliance with the prior year's WMP and the activities contained therein and related funding. Thus, the IE should not be inspecting utility facilities for potential issues related to GO 95 or other CPUC regulations. Those much broader functions must appropriately remain within the exclusive purview of the WSD, and various CPUC divisions, as appropriate.

***The SOW should not include inspecting attached third-party communications facilities***

Attached third-party communications facilities are not installed nor maintained by the electrical corporations. These facilities are owned and maintained by the communications corporations. These facilities are not related to the electrical corporations' WMP and thus inspecting third-party communications facilities should be removed from the IE scope of work.<sup>8</sup>

***The IE should not be assisting WSD in development and/or improvement of utility-specific methods and tools to perform risk assessments.***

The SOW states that the IE will "Assist the WSD in development and/or improvement of utility-specific methods and tools to perform risk assessment of utility infrastructure, including identifying technical solutions that may need to be deployed by electrical corporations or the WSD to collect and analyze required data based on a review of the electrical corporations' processes."<sup>9</sup> This task is related to assessing efficiency of the utility and not compliance related. This task should be removed from the SOW.

***The IE does not need to "sign off on engineering work"***

While the IE may need a Lead Engineer to oversee engineering inspections and WMP compliance, the IE will not need to "sign off on engineering work in accordance with California Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG) requirements" as set forth in the SOW.<sup>10</sup> In assessing compliance, the IE may review existing electrical corporation engineering diagrams and documents to confirm

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<sup>8</sup> WSD in its broader safety role can inspect communications facilities as they relate to clearances from electrical conductors set forth in G.O. 95.

<sup>9</sup> RFQ 20NC0427, Task 2, item 3, p. 7.

<sup>10</sup> RFQ 20NC0427, Task 1, item 16, p. 6.

compliance, but will not be creating or approving any engineering documents on behalf of the electrical corporation. All the electrical corporations already have many professional engineers on staff to perform these duties. The requirement to be able to sign off on engineering work should be removed from the SOW.

***The requirement for the IE to submit a report 1 year after the remediation of all identified deficiencies should be removed from the SOW.***

The SOW requires the IE to “issue a report within 1 year of the expiration of any time period for an electrical corporation to correct and eliminate any deficiency identified in the independent evaluator’s July 1 report.”<sup>11</sup> This requirement is not associated with the IE to be hired by the IOUs to verify WMP compliance but instead with a potential IE to be hired by WSD to conduct the audit required by Public Utilities Code §8386.3(c)(5)(A) dealing with the electric corporations notification that it completed a substantial portion of the vegetation management requirements in its WMP.<sup>12</sup> This audit is meant to “specify any failure of the electrical corporation to substantially comply with the substantial portion of the vegetation management requirements in the wildfire mitigation plan.”<sup>13</sup>

In addition, the electrical corporations may hire an IE to conduct its 2020 WMP compliance and a different IE to conduct its 2021 WMP compliance. Thus, it does not make sense to retain an IE for an additional year to simply submit a report on the completion of any identified deficiencies.

**6. WSD SHOULD APPROVE IE INVOICES**

SCE agrees that it is important that the IEs are independent and devoid of any conflicts of interest or perceptions of partiality. Ensuring the independence of the IE review is critical to helping demonstrate the electrical corporations complied with their WMPs. Given that WSD is directing the work of the IE, SCE believes WSD should approve all of the IE invoices prior to their submittal to the electrical corporations for payment. WSD’s approval would accomplish the following important goals: (1) ensuring the invoices correctly represent the work performed by the IE<sup>14</sup>; and (2) helping to minimize

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<sup>11</sup> RFQ 20NC0427, Task 5, item 2, p. 9.

<sup>12</sup> PU Code §8386.3(c)(5)(B) states “The Wildfire Safety Division may engage its own independent evaluator, who shall be a certified arborist and shall have any other qualifications determined appropriate by the division, to conduct the audit specified in subparagraph (A).”

<sup>13</sup> PU Code §8386.3(c)(5)(C) states “Within one year of the expiration of the time period for an electrical corporation to correct and eliminate any deficiency identified in the audit, the independent evaluator shall issue a report ...specifically describing any failure of the electrical corporation to substantially comply with the substantial portion of the vegetation management requirements in the electrical corporation’s wildfire mitigation plan.”

<sup>14</sup> Since the electrical corporations’ customers are ultimately paying for the costs of the IE, it is critical that the invoices reflect the actual work performed. Since the electrical corporations are not directing the

concerns of potential IE conflicts of interest raised by direct utility payment of the IE invoices.<sup>15</sup>

## **7. TIMING OF FUTURE IE LISTS**

P.U. Code §8386 states that WSD must issue the IE List by March 1 of each year. The 2020 WMP IE review has been compressed due to the timing of the release of the approved IE list (February 22, 2021) and the final IE Guidance (anticipated late March/early April). SCE encourages WSD to work with the electrical corporations to develop a schedule for the issuance of the next IE List and Guidance that allows the IEs more time to complete their review.

SCE appreciates the opportunity to provide these comments and is ready to meet with WSD and the other electrical corporations to help ensure the IE WMP compliance reviews are completed in a timely and efficient manner.

If you have any questions, or require additional information, please contact me at [carla.peterman@sce.com](mailto:carla.peterman@sce.com).

Sincerely,

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IEs' work, they cannot determine if the invoices are accurate. Since WSD is directing the IEs' work, it is in a position to verify that the invoices are accurate and reflect the work that the IEs have been tasked to perform.

<sup>15</sup> See Green Power Institute's Comments on the WSD Proposed Independent Evaluator List dated February 4, 2021, p.7.