

11/03/2020

Caroline Thomas Jacobs, Director
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California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

SUBJECT: Southern California Edison Company's Comments on Draft
Resolution WSD-012 and Related Attachment

Director Thomas Jacobs,

Pursuant to the Draft Resolution WSD-012 dated October 14, 2020, Southern California Edison Company (SCE) respectfully submits these Comments.

**THE COMMISSION SHOULD CLARIFY THAT WMP “COMPLIANCE” AND
“EFFECTIVENESS” ARE DISTINCT CONCEPTS**

SCE has emphasized how Wildfire Mitigation Plan (WMP) compliance is distinct from and must continue to be distinguished from WMP effectiveness.¹ SCE – like all stakeholders – supports WMPs that over the long-term effectively reduce the risk of catastrophic wildfires. But undue focus on outcome-based metrics – especially those that are considered over short time periods and/or that are based on outcomes that are outside of the reasonable control of the utilities -- can mask the true effectiveness of WMPs, and lead to both false positives and false negatives. For example, in 2019 California had a historically low number of acres burned from wildfires. In 2020, California has had a record high number of acres burned from wildfires. Considering that “acres burned” is a key WMP effectiveness metric, simple observation of this statewide measurement could lead to the conclusion that utility WMPs were extraordinarily effective in 2019 and were relatively ineffective in 2020.² Instead, key differences in exogenous factors wholly unrelated to WMPs (especially weather) likely drove the two starkly disparate statewide outcomes between the two years.

The Draft Resolution takes this problematic simplification a step further by including language that could be interpreted to inappropriately directly link WMP effectiveness with WMP compliance. Specifically, the Draft Resolution would “link[] outcomes to

¹ See, e.g., October 2, 2020 SCE's Comments on the Workshop for the Draft WMP Compliance Process Proposal Presentation.

² SCE recognizes that many of the 2020 California wildfires were not associated with utility infrastructure.

WMP performance metrics ...”³ In explaining how this would be accomplished, the Draft Resolution “defines compliance as the successful implementation of the electrical corporation’s previously stated narratives, actions, targets, outcome metrics and objectives in the approved WMPs, including [by] tracking outcomes of the reduction of wildfire risks and Public Safety Power Shutoff (PSPS) events in order to assess the effectiveness of the risk reduction strategies in electrical corporations’ approved WMPs to mitigate areas with the highest-risk. ... This involves connecting the narratives, targets, outcome metrics and objectives stated in WMPs to desired outcomes and ensuring electrical corporations achieve the desired outcomes, such as reduction of wildfire risk.”⁴

If not clarified, the Draft Resolution could be interpreted to mean that if in a given year certain outcome metrics were sub-optimal, even those completely outside of a utility’s control, WSD could deem a WMP “ineffective” and therefore non-compliant. That result would be facially inequitable, illogical, and inconsistent with how the Commission has always and appropriately evaluated utility compliance. A compliance review should be structured to measure clear requirements that are within a regulatee’s control, and not be based on vague outcomes and standards that are dependent on third-party-driven and otherwise exogenous events.

Finally, because non-compliance with a WMP can explicitly lead to a Commission enforcement action and resulting fines and penalties, tying utility compliance to dozens of vague effectiveness metrics that are not sufficiently defined or controllable also implicates basic principles of due process.⁵ For example, the Draft Resolution does not define which metrics will be measured for compliance, or give any indication of what level of “ineffectiveness” of certain metrics could contribute to a determination of non-compliance. If not clarified, the Draft Resolution could therefore implicate due process’ basic requirement to put the utilities on adequate notice of what results could lead to sanction.

On the other hand, the Draft Resolution does contain significant useful guidance on what a WMP compliance **should** involve:

“The WSD will evaluate electrical corporations’ implementation of WMPs through field inspections, audits, Independent Evaluator reports, customer complaints and other regular reporting submissions as requested by the WSD. The WSD will verify actions committed to by electrical corporations in their currently approved plans.”⁶

³ Draft Resolution at p. 5.

⁴ Draft Resolution Attachment at p. 4.

⁵ See, e.g., *BMW of North America v. Gore* (1996), 517 U.S. 559, 574 (“a person [must] receive fair notice [of] the conduct that will subject him to punishment.”).

⁶ Draft Resolution at pp. 3-4.

THE COMMISSION SHOULD AFFIRM THAT THE COMPLIANCE PERIOD, WMP PERIOD AND UTILITY PLANNING PERIOD SHOULD ALL ALIGN

SCE appreciates that the Draft Resolution and Attachment 1 recognize the importance of ensuring that the WMP “compliance period” coincides with the period forecasted in the approved WMP. Given the nature of the WMP activities, they are not spread evenly throughout the current calendar year-based WMP. Thus, having a compliance period that does not coincide with the WMP forecast period would create significant challenges in assessing compliance.

While Attachment 1 states that the compliance period will “likely be aligned with existing reporting and/or planning cadences,” SCE is concerned that WSD is leaving open the option for “staggered compliance periods for each electrical corporation.” While staggered compliance periods may help ease some of the burden on WSD and other parties, it potentially creates a disconnection between the IOU calendar year-based planning, budgeting, implementation and tracking process used for all utility activities, not just those related to the WMP. To create staggered compliance periods, WSD would also have to create staggered forecast periods for the WMPs to ensure that the compliance period and the WMP forecast periods stay aligned. Changing the WMP to a period other than calendar year will create inefficiencies within the utility planning process and require a separate planning process for WMP-related work. SCE is also concerned that SB 901 and AB 1054, both of which address WMP issues, did not contemplate non-calendar-year-based WMP periods.

The Draft Resolution and Attachment 1 should be modified to clearly communicate the need for alignment between the compliance period, the WMP forecast period and the utility planning period.

THE CORRECTIVE DEADLINES SHOULD BE ALIGNED WITH GO 95

The Draft Resolution and Attachment 1 propose expedited correction time periods for curing defects that are not aligned with GO 95, Rule 18. The Draft Resolution does not specify what types of defects fall within each category or the criteria for why each defect is assigned to a category. Nor does the Draft Resolution address why the proposed expedited corrective time periods are necessary to help reduce wildfire risk compared to the Commission-approved time periods for potential violations of GO 95 that create a fire risk located in a High Fire Threat District, which were developed through a multi-year collaborative proceeding with inputs from multiple stakeholders. SCE encourages the Commission to look for ways to simplify the WMP compliance evaluation process by aligning with existing processes or reducing the differences where possible. Having two sets of prioritization categories, with different corrective time periods for WMP-related defects versus potential violations of GO 95 that potentially create a fire risk, would unnecessarily add complexity and confusion. In addition, SCE’s work management systems already reflect the current GO 95 remediation regime and would need to be modified if a different remediation regime is used exclusively for WMP-related defects. Accelerating some corrective actions that are not in the normal queue would disrupt the regular flow of work, create inefficiencies, and may increase costs. In addition, modifying the corrective time periods would require significant investment in additional

resources, training, and procedure development without any analysis that these time periods reduce the risk of catastrophic wildfires. Before adopting new defect prioritization categories and correction time periods, SCE recommends that WSD work with the utilities and other stakeholders to explore options for simplifying the process.

SCE recommends that: (1) the Draft Resolution and Attachment 1 be modified to use the existing GO 95 prioritization categories and corrective time periods for WMP-related defects; and (2) that if WSD believes that WMP-related defects warrant accelerated corrective time periods, that WSD pursue the appropriate changes to GO 95 through a regulatory proceeding where a full record can be developed that assesses the additional costs of the accelerated corrective time periods compared to the associated potential risk reduction.

THE NUMBER OF CUSTOMER COMPLAINTS IS NOT AN INDICATION OF COMPLIANCE OR NONCOMPLIANCE WITH THE WMP

The Draft Resolution states that “Ongoing Compliance Assessments where the WSD will evaluate electrical corporations’ implementation of WMPs through field inspections, audits, Independent Evaluator reports, **customer complaints** and other regular reporting submissions as requested by the WSD.” (emphasis added) While potential defects verified by WSD that are identified through customer complaints submitted to the CPUC could be included in WSD’s assessment of a utility’s compliance with its WMP, the number of complaints submitted is not an indication of compliance or noncompliance. Just because a customer submits a complaint, does not mean that the utility is noncompliant with its WMP. For example, a customer can submit a complaint that a utility removed a tree, even if the utility followed all of its protocols in its WMP and determined the tree to be hazardous requiring its removal. In this case the utility is fully compliant with its WMP, even though the customer has submitted a complaint. SCE recommends that the language in the Draft Resolution be modified to reflect that only “defects verified by WSD that were identified through customer complaints” should be included in WSD’s ongoing assessment of compliance.

CONCLUSION

SCE appreciates the opportunity to submit its Comments on Draft Resolution WSD-012. In Appendix A, SCE has included proposed clarifying changes to the Draft Resolution's draft language on these issues.

If you have any questions, or require additional information, please contact me at carla.peterman@sce.com.

Sincerely,

//s//

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Southern California Edison

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APPENDIX A

Appendix A – Proposed Clarifying Changes to Draft Resolution WSD-012 and Related Attachment

WSD-012, Proposed Outcome, p. 2

- Proposes ~~an expedited~~ resolution timeframe for WMP defects consistent with existing GO 95 correction timeframes.

WSD-012, Section II.1, p. 3

- Ongoing Compliance Assessment where the WSD will evaluate electrical corporations' implementation of WMPs through field inspections, audits, Independent Evaluator reports, defects verified by WSD through customer complaints and other regular reporting submissions as requested by the WSD. The WSD will verify actions committed to by electrical corporations in their currently approved plans.

WSD-012, Section II.1, pp. 4-5

The attached WSD compliance process proposes accelerated timeframes for WMP defects compared to GO 95. However, no record has been developed on the additional costs associated with these accelerated correction timeframes and any potential risk reductions. Given the lack of evidence supporting these accelerated corrective timeframes, the GO 95 timeframes will be used for WMP-related defects as set forth below. Depending on the level of defect severity—with a range of severe, moderate, and minor defects—the WSD will require repairs in intervals that depend on severity and the location of the defect:

<u>Category</u> <u>Priority Level</u>	<u>Correction</u>
Category 1—Severe <u>Level 1</u>	Immediate resolution
Category 2—Moderate <u>Level 2</u>	1-2 <u>6</u> months (in HFTD Tier 3) 3-6 <u>12</u> months (in HFTD Tier 2) 6 <u>12</u> months (if relevant to worker safety) 12 months or scheduled in WMP update (other) <u>36 months (all other Level 2)</u>
Category 3—Minor <u>Level 3</u>	12 60 months or resolution schedule <u>included in WMP update</u>

If WSD or any other party believes that WMP-related defects warrant accelerated corrective time periods compared to the approved GO 95 correction timeframes, they should pursue the appropriate changes to GO 95 through a regulatory proceeding where a full record can be developed that assesses the additional costs of the accelerated corrective time periods compared to the associated potential risk reduction.

~~Additionally, through linking outcomes to WMP performance metrics, the WSD can focus compliance tracking on electrical corporations' improvement of outcomes and reduction of risk.~~

Additionally, through evaluating long-term trends in linking outcomes that are within the reasonable control of the electrical corporations and linking those outcomes to WMP activities and initiatives, the WSD can focus compliance tracking on electrical corporations' improvement of outcomes and reduction of risk.

WSD-012, Ordering Paragraph 1, p. 7

1. The contents in Attachment 1 propose a WMP compliance process pursuant to Pub. Util. Code §§ 8386(d)(3) and is hereby adopted as modified herein.

Attachment 1, Section 3, p. 4

Another objective of the WSD is to develop a compliance path for electrical corporations to effectively implement their approved WMPs and comprehensively achieve compliance. This involves connecting the narratives, targets, outcome metrics and objectives stated in WMPs to desired outcomes that are within the reasonable control of the electrical corporations and ensuring electrical corporations achieve the desired outcomes that are within their reasonable control, such as reduction of wildfire risk. Ultimately, "compliance" will be measured by WSD's evaluation of whether the electrical corporations have substantially achieved their WMP commitments, which, cumulatively, are expected to reduce wildfire risk over the long-term.