

Memorandum of Understanding between the California Public Utilities Commission and the Office of Energy Infrastructure Safety

The Office of Energy Infrastructure Safety (“Energy Safety”) and the California Public Utilities Commission (“CPUC”), (collectively, “Parties”) enter into this Memorandum of Understanding (“MOU”) to meet the requirements of Government Code Section 15476, the collaborative requirements of California Public Utilities Code Sections 8386, 8386.1, 8386.3, and 8389 and all necessary and convenient actions in the furtherance of these requirements and the development of consistent approaches to wildfire management and electric infrastructure safety, including, but not limited to, the sharing of information, including data and records, to support the implementation of AB 111, AB 1054, and the proposed legislative language amendments that are required for Energy Safety to meet its statutory responsibilities per AB 111 and AB 1054.

AGENCY ROLES

Energy Safety, a department under the Natural Resources Agency, is the successor to, and vested with, all of the duties, powers, and responsibilities of the previous Wildfire Safety Division (Division) within the CPUC, including, but not limited to, all lawful rules and regulations established under laws prescribing the duties, powers, and responsibilities of the Division and Energy Safety.

Both Energy Safety and the CPUC retain all aspects of their existing authority and jurisdiction provided for by law. Nothing in this MOU delegates any rights, responsibilities, or authorities provided by law to either Party. Nothing in this MOU delegates or otherwise prevents, compromises, or precludes the Parties from exercising all rights, responsibilities, or authorities proved by law including taking action expeditiously and in due course of their established processes.

SHARED PRIORITIES

Government Code Section 1547 directs the CPUC and Energy Safety to cooperatively develop consistent approaches and share data related to electric infrastructure safety. CPUC and Energy Safety share the following priorities for effective communication and coordination:

1. Work together to develop consistent approaches and policies towards public safety, including but not limited to approaches and policies regarding utility wildfire safety, prevention, and mitigation actions.
2. Assist one another in preparing for, responding to, and mitigating the effects of public safety risks associated with energy infrastructure, including but not limited to wildfires and de-energization events.

3. Deepen awareness of the requirements and goals of each other's programs, processes, policies, and best practices.
4. Coordinate, including inter-agency training as may be requested or offered from time to time, between each other's programs, processes, policies, and best practices in the pursuit of public safety and in particular, utility wildfire safety, prevention, and mitigation.
5. Collaborate to assist the CPUC in fulfilling its statutory requirements regarding utility cost levels that can be reasonably and equitably borne by California utility ratepayers and assist Energy Safety in fulfilling its statutory requirements regarding energy infrastructure safety, including wildfire safety.
6. Coordinate to develop and ensure consistent approaches and policies towards enforcement responses in the event of violations of CPUC or Energy Safety rules, regulations or orders by a regulated entity, including where such violations are determined or alleged to have contributed to ignition of a wildfire.
7. Enhance the lines of communication between the Parties, stakeholders, or other participants in public processes before both CPUC and Energy Safety.
8. Provide complementary resources in the advancement of the scope of this MOU, while recognizing that Parties have the right to allocate their own resources as available and reasonable to activities in support of meeting the intent of this MOU.
9. On an ongoing and as-needed basis, assist one another in timely understanding of respective enforcement powers and agency perspectives on any regulatory overlaps as appropriate.

SHARED INFORMATION

The Parties agree that consultation, collaboration, and/or assistance will be needed to cooperatively develop consistent approaches and share data related to energy infrastructure and share results from various safety activities, including relevant inspections and regulatory development. Full and candid information sharing and deliberations between the Parties will serve the public interest by facilitating the development and implementation of well-considered approaches to utility wildfire risk management and electric infrastructure safety. In order to achieve the above intent, CPUC and Energy Safety agree as follows:

1. The CPUC shall provide Energy Safety with information necessary to fulfill Energy Safety's mission to oversee and enforce electrical corporations' compliance with wildfire safety obligations and the objectives of AB 111, AB 1054, and the associated proposed legislative language amendments.
2. Energy Safety shall provide the CPUC with information necessary to fulfill CPUC's mission to supervise and regulate every public utility in the State and the objectives of AB 111, AB 1054, and the associated proposed legislative language amendments.
3. The Parties will, as necessary and appropriate, keep each other informed of issues of concern that are discovered in execution of their respective obligations and roles. This may include, sharing data, relevant inspections, regulatory development, field observations, observed patterns of behavior by regulated entities, or general opinions. The Parties may also share received documents, draft reports, pre-decisional documents, internal findings, and other documents as necessary and appropriate.

4. The Parties agree to inform each other of non-disclosure agreements entered into with third parties when those agreements address issues within the scope of this MOU, and to discuss the appropriateness of including the other party into the non-disclosure agreement.
5. Areas requiring such information sharing between the Parties may include, but are not limited to:
 - a. Wildfire mitigation plans (WMPs).
 - b. Cost and bill impacts of decisions made by Energy Safety (as relating to or affecting General Rate Cases, memorandum accounts, balancing accounts or other procedural mechanics of establishing revenue requirements and/or cost recovery before the CPUC or the Federal Energy Regulatory Commission).
 - c. Public Safety Power Shutoffs (PSPS) and PSPS oversight actions, rules, regulations, events, and enforcement (including, but not limited to, coordination on PSPS 10 Day Report evaluations, existing and future PSPS Guideline requirements, and WMP PSPS-related requirements).
 - d. Wildfire safety-related General Order requirements.
 - e. Wildfire safety-related CPUC proceedings.
 - f. Safety culture assessment and safety certifications.
 - g. Executive compensation structure.
 - h. Infrastructure applications that may trigger coordination between agencies pursuant to the California Environmental Quality Act or CPUC General Orders.
 - i. Wildfire safety-related capital or expense projects including those not otherwise captured in WMPs.
 - j. Situational and/or operational reports.
 - k. Wildfire safety or incident reports.
 - l. Wildfire investigations (including, but not limited to, inspection and audit reports).
 - m. General customer complaints.
 - n. General Orders.
 - o. Wildfire safety-related risk assessments such as Risk Assessment Mitigation Phase (RAMP) and Safety Model Assessment Proceeding (SMAP).
 - p. Wildfire safety-related energy system hardening and vegetation management.
 - q. Enforcement actions.
 - r. Tabular and spatial data provided from the utilities.
 - s. Other areas related to the Parties' shared priorities.

Both parties will strive to share information on the above topics prior to decision-making, when possible.

PROTECTION OF CONFIDENTIAL INFORMATION

“Confidential Information” includes information obtained pursuant to California Public Utilities Code section 583 and CPUC General Order 66-D, records exempt from public disclosure under the California Public Records Act (California Government Code sections 6250 et seq.), Evidence Code section 1040, or written or oral information that is appropriately designated by the Parties to be exempt, prohibited, or privileged from disclosure by State or Federal law.

The Parties shall take all necessary measures to protect Confidential Information and, consistent with the Public Records Act and any other laws requiring disclosure, treat the shared Confidential Information as confidential. The Parties shall impose all the requirements of the MOU on all of their respective officers, members, employees and agents with access to Confidential Information. Any Confidential Information obtained by the Parties shall only be used for the purposes which are consistent with existing law.

All Confidential Information provided to the Parties pursuant to this MOU shall be subject to California Government Code section 6254.5, subdivision (e), which exempts from public disclosure under the California Public Records Act confidential records that one state or local agency has provided to another state or local agency pursuant to an agreement that the latter will treat the disclosed records as confidential.

For purposes of documents marked confidential or privileged and provided to the other party, those documents shall be maintained as confidential and shall not be released without an agreement in writing of the other party, unless a court of competent jurisdiction orders the release of those documents.

The Parties will make all reasonable efforts to ensure that no disclosure of confidential or privileged information occurs. In the event an inadvertent disclosure of confidential or privileged information occurs, the party making such inadvertent disclosure will notify the other party to this MOU in writing and will make every reasonable effort to correct promptly the inadvertent disclosure.

If either of the Parties receives a request to release, disclose, or have access to any of the aforementioned privileged and/or confidential information (for example, by way of subpoena, discovery request, Freedom of Information Act or California Public Records Act request), the party receiving the request shall promptly transmit a copy of the request to the party who originally generated the privileged and/or confidential document(s) or communication(s). The party who originally generated the privileged and/or confidential document(s) or communication(s) shall assume the lead responsibility for determining the appropriate response as required by California law, and shall consult with the other party during the course of reaching its determination.

SCOPE

This MOU is made for the sole benefit of the Parties and no other person or entity shall have any rights or remedies under or by reason of this MOU. Nothing in this MOU may be the basis of any third-party challenges or appeals. Nothing in this MOU creates any rights, remedies, or causes of action in any person or entity not party to this MOU.

APPROVAL

This MOU is effective upon completion of the signatures listed below. This MOU may be executed in counterparts. Each executed counterpart shall have the same force and effect as an original instrument. Taken together, the executed counterparts shall constitute one and the same agreement.

This MOU shall not be modified except by a written agreement signed by authorized representatives of the Parties. The Parties shall meet and coordinate on issues pertaining to the effectiveness and validity of this MOU on an annual basis, or as mutually agreed upon by the Parties. Any determination that a provision in this MOU is invalid does not invalidate any other provision of this MOU or the MOU in its entirety.

This MOU shall continue unless and until either party to the MOU determines that the MOU should be terminated. Unless otherwise provided for by the written agreement of the Parties, unilateral termination of the MOU shall be effected no sooner than 60 days from the date either party provides written notice of its intent to terminate the MOU. Termination of this MOU shall not affect the obligations of the Parties to maintain the confidentiality of information exchanged pursuant to this MOU.

Each party represents and warrants that it has the right, power, and authority to execute this MOU. Each party represents and warrants that it has given any and all notices, and obtained any and all consents, powers, and authorities necessary to permit that party, and the persons executing this MOU for the party, to enter into this MOU.

Dated: July 12, 2021



Rachel Peterson
Executive Director
California Public Utilities Commission

Dated: July 12, 2021



Caroline Thomas Jacobs
Director
Office of Energy Infrastructure Safety