

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 26, 2020

**SUBJECT: Wildfire Safety Division Final Action Statement on
Bear Valley Electric Service Inc.'s 2020 Wildfire Mitigation Plan**

This Final Action Statement is the Wildfire Safety Division's (WSD's) denial of Bear Valley Electric Services Inc.'s (BVES) 2020 Wildfire Mitigation Plan (WMP) submitted on February 7, 2020, amended initially on March 6, 2020 and again on May 22, 2020. This denial does not require Commission ratification.

BVES shall file a new 2020 WMP meeting the requirements set forth herein no later than 60 days from the date of this Final Action Statement, however, BVES is strongly encouraged to file its new 2020 WMP as soon as it is available to facilitate an expeditious review. BVES is strongly urged to also address Class A and Class B deficiencies the WSD found in Draft Action Statement and Draft Resolutions WSD-006 and WSD-002,¹ mailed on May 7, 2020, as set forth in Appendices B and C (and explained in Appendix D) to this Action Statement. BVES may separately submit its new WMP from the required explanation of events that led to errors in its original submissions as set forth herein; however, BVES' WMP submission will not be considered complete until all elements, including the required explanation, have been submitted. Stakeholders may comment on any matter in the new WMP no later than 30 days following its submission; comments shall be limited to 20 pages.

Introduction and Background

Wildfires have caused significant social, economic, and environmental damage on a global scale. The WSD's mission is to reduce the risk of such catastrophic wildfire events from being ignited by electrical equipment and facilities. The WSD is tasked with review and approval of electrical corporations' WMPs. In conformance with its mission and statutory mandate, the WSD reviewed and evaluated electrical corporations' 2020 WMPs submitted on February 7, 2020. Notably, BVES' 2020 WMP submitted on February 7, 2020 did not conform to the 2020 WMP Guidelines, issued in an Administrative Law Judge (ALJ) ruling issued on December 16, 2019 – nearly eight weeks before the 2020 WMP due date. Instead, BVES' initial 2020 WMP submission followed the outdated WMP Guidelines from the 2019 WMP submissions. It wasn't until March 6, 2020 that BVES provided the WSD with a 2020 WMP in a format and level of detail expected for electrical corporations' 2020

¹ Resolution WSD-006 has been withdrawn from the Commission's agenda; it is appended here for explanatory purposes only as Appendix D.

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WMP submissions. On May 7, 2020, the WSD mailed Draft Resolutions approving with conditions electrical corporations' 2020 WMPs, including that of BVES. On May 22, 2020, two weeks after the WSD mailed its Draft Resolution, BVES served an "Errata" disclosing substantial errors in its revised WMP submission from March 6, 2020, which rendered moot virtually the entire WSD analysis of BVES' 2020 WMP. On June 11, 2020, in accordance with statutory mandate, the WSD received the Commission's ratification of its recommendations to approve the 2020 WMPs of all other electrical corporations.

The original Draft Resolution on BVES' WMP, Draft Resolution WSD-006, mailed on May 7, 2020, found the following problems, discussed in more detail in Appendices B, C and D to this Resolution:

- 1.** *Disproportionate spending when compared to other electrical corporations.* On a normalized basis, BVES is spending three times the amount per circuit mile as the large electrical corporations on wildfire mitigation and many times more than its peer small and multijurisdictional electrical corporations without justification of why such expense is justified. Combined with BVES' failure to complete 2019 mitigation, we are concerned that BVES' approach to wildfire mitigation may not be adequate. BVES' Errata changed this portion of its earlier WMP.
- 2.** *Delays in completing prior mitigation promised.* BVES reports limited progress on certain mitigation promised in its 2019 WMP. For example, BVES is off target on LiDAR surveys (vegetation management), removal of conductor strung on live trees and replacement of expulsion fuses that spark and cause ignition (system hardening).
- 3.** *Lack of PSPS planning and readiness.* BVES has not called a PSPS event but appears to have some risk of such an action due to its interconnectedness with Southern California Edison's (SCE) power lines. It must have a plan for keeping the public informed and safe in the event a PSPS occurs.
- 4.** *Deficiencies.* BVES' WMP lacked a great deal of required information, listed as "deficiencies" in the original Draft Resolution in Appendix D.

Therefore, the WSD's draft approval of BVES' WMP identified a number of deficiencies and imposed corresponding conditions.

BVES' Errata (attached to this Final Action Statement as Appendix A) explained that it had committed a fundamental error in its March 6, 2020 WMP by stating that all its lines would be undergrounded rather than just a portion of one line. This error, in

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combination with its conflating of line miles and circuit miles, caused BVES' costs to appear three times as high as those of the other electrical corporations submitting WMPs. BVES did not otherwise explain its error.

In response to the Errata, the WSD extended its own time for review of the WMP. The WSD cited as authority Public Utilities Code section 8386.3(a), which states that the Division has three months to review and approve or deny an electrical corporation's WMP "unless the division makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met." The WSD stated it had reviewed BVES' Errata and found the changes to be substantive and significant to its analysis. Stakeholders and the public had no opportunity to review or comment on the Errata, and WSD had no opportunity to review the Errata in detail or consider comments on it. Therefore, the WSD found the three-month deadline in Public Utilities Code section 8386.3(a) could not be met.

Compounding the problem, issues with quality control and resubmissions that caused delays repeatedly occurred with BVES throughout the initial WMP review period. BVES submitted its initial WMP by the February 7, 2020 deadline using the wrong format, despite notice of the new format and template on December 16, 2019 to all parties to Rulemaking 18-10-007, the WMP formal proceeding. All other electrical corporations successfully submitted their WMPs using the new format by the February 7, 2020 deadline. BVES did not submit a WMP in the correct format until March 6, 2020, almost a month after it was due. Even after this initial delay in filing its WMP with the correct format, BVES' WMP continued to have errors not identified until two weeks after Draft Resolution WSD-006 was mailed.

Discussion of WMP Assessment

The WSD does not take a decision to deny BVES' WMP lightly. However, BVES' conduct demonstrates a serious problem with its quality control and understanding of the WMP process. Use of a consultant to prepare documents does not relieve a regulated entity of the obligation to submit accurate information to the consultant, check the consultant's work, verify it is accurate, and submit material to the Commission and the WSD that meets statutory and regulatory requirements.

Had the WSD not found the errors in BVES' WMP, it is not clear BVES would have discovered or corrected them on its own. In the WSD's view, BVES' conduct demonstrates lack of organizational control and leadership. Such issues also concern the WSD regarding BVES' quality control oversight of executing its WMP initiatives.

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The WSD reviewed all 2020 WMPs for compliance with statute, the WSD's guidance served on all electrical corporations with the Rulemaking 18-10-007 Administrative Law Judge's December 16, 2019 Ruling, and with the following criteria:

- **Completeness:** The WMP is complete and comprehensively responds to the WMP requirements,
- **Technical feasibility and effectiveness:** Initiatives proposed in the WMP are technically feasible and are effective in addressing the risks that exist in the utility's territory,
- **Resource use efficiency:** Initiatives are an efficient use of utility resources, and
- **Forward looking growth:** The utility is targeting maturity growth.

BVES' February 7, 2020 WMP, as amended March 6, 2020 and May 22, 2020, fails the "Completeness" requirement. Submission of BVES' Errata on May 22, 2020 does not satisfy the criteria of completeness because BVES submitted its Errata after issuance of the May 7, 2020 Draft Action Statement and Draft Resolution. Further, the WSD does not know whether BVES' Errata addresses all errors in BVES' WMP or only those that came to light in Draft Resolution WSD-006. Stated differently, the WSD is not assured that BVES has undertaken a complete and thorough review of its WMP submission to capture all errors in its Errata or whether its review extended only to those areas identified as "Deficiencies" in Draft Resolution WSD-006. For these reasons, the WSD cannot make a finding of completeness based on the information submitted by BVES.

In view of BVES' conduct, the WSD is denying the WMP as submitted. BVES shall submit a new 2020 WMP no later than 60 days from the date of issuance of this WSD Final Action Statement. However, to help facilitate an expeditious review, BVES is strongly encouraged to file its new WMP as soon as it is available, despite the 60-day deadline provided. BVES' new WMP shall reflect the changes in the Errata, to the extent it is still accurate. BVES is strongly urged to also address Class A and Class B deficiencies that the WSD found in BVES' original WMP, as set forth in Appendices B and C to this Final Action Statement. BVES shall check every aspect of its new WMP to ensure completeness and accuracy prior to submission and shall include a sworn attestation by the senior most officer responsible for BVES' WMP as to the new WMP's completeness and accuracy.

The WSD expects BVES to make immediate improvements to its internal processes to ensure the quality and accuracy of its wildfire mitigation work, reporting, and regulatory submissions. As a separate supplemental filing, which may be submitted separately from its new WMP, BVES shall provide a full and detailed explanation of how and why the errors leading to the Errata were made. The explanation must include, but is not limited to, what caused the errors, how BVES reviewed the consultant's work products before

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submission to the WSD, how much BVES paid for the consultant's work product(s), and a description of what changes BVES is making to avoid such significant failures in the future. While the submission of the explanation may occur separately from submission of the new WMP, BVES' new WMP will not be considered complete until the WSD has received the supplemental explanatory submission.

Impact of COVID-19 Pandemic

After BVES submitted its original WMP, California Governor Gavin Newsom signed Executive Order N-33-20 requiring Californians to stay at home to combat the spread of the COVID-19 virus. Specifically, Governor Newsom required 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 (stay-at-home order).²

As articulated in the March 27, 2020 joint letters³ of the WSD, CAL FIRE and the California Governor's Office of Emergency Services regarding essential wildfire and PSPS mitigation work during COVID-19 sent to each electrical corporation, electrical corporations are expected to continue to prioritize essential safety work. The WSD expects the electrical corporations to make every effort to keep WMP implementation progress on track, including necessary coordination with local jurisdictions. Such effort is essential to ensuring that electrical corporations are prepared for the upcoming and subsequent wildfire seasons, while complying with COVID-19 restrictions requiring residents to shelter-in-place, practice social distancing, and comply with other measures that California's public health officials may recommend or that Governor Newsom or other officials may require in response to the COVID-19 pandemic.

Furthermore, the WSD expects the electrical corporations to continue to make meaningful progress on PSPS mitigation goals, including continuing with sectionalization projects, local outreach and coordination, establishing customer resource centers, and microgrid projects. In addition, electrical corporations are expected to undertake any other critical work related to operating a safe and reliable grid and to mitigate wildfire and/or PSPS risk.

² Executive Order N-30-40. Available at <http://covid19.ca.gov/img/Exeuctive-Order-N-30-20.pdf>.

³ <https://www.cpuc.ca.gov/covid/>. Letters to each electrical corporation are found under the heading "Other CPUC Actions", March 27, 2020: Joint Letters to IOUs re: Essential Wildfire and PSPS Mitigation Work.

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Comments and Outstanding Requests

A draft of this Action Statement was served on the service list for R.18-10-007. Comments were allowed under Rule 14.5 of the Commission's Rules of Practice and Procedure. On August 11, 2020, BVES was the only stakeholder to submit comments regarding the proposed denial of its 2020 WMP. BVES' comments generally expressed regret for the sequence of activities and lapses in quality control as described in this Action Statement, while objecting to certain statements made. The WSD has reviewed BVES' comments, and changes have been made throughout this Final Action Statement to address those comments.

Additionally, on August 20, 2020, BVES submitted a request to the WSD seeking permission to bifurcate the submission of its new WMP and a full and detailed explanation of how and why the errors leading to the Errata were made. As discussed in earlier sections of this Final Action Statement, the WSD grants BVES' request to separately file its new 2020 WMP and an explanation of how and why errors leading to its May 22, 2020 Errata filing were made. However, BVES' new WMP will not be considered complete until the explanation is submitted.

Conclusion

BVES' Errata fundamentally changed the nature of its capital spending and undergrounding plans and demonstrated a significant lack of quality control, leadership and management within BVES. Therefore, it is prudent to deny BVES' 2020 WMP, submitted February 7, 2020, amended March 6, 2020 and further amended May 22, 2020.

The WSD expects BVES to submit complete and accurate documentation on time and within the parameters set forth in the Public Utilities Code, Commission decisions, orders, and rulings and guidance. BVES shall file a new 2020 WMP meeting the requirements set forth herein no later than 60 days from the date of this Final Action Statement, however, BVES is strongly encouraged to file its new 2020 WMP as soon as it is available to facilitate an expeditious review. Lastly, BVES' request, made on August 20, 2020, seeking permission to separately file its new 2020 WMP and an explanation of errors leading to its May 22, 2020 Errata filing is granted.

Sincerely,



Caroline Thomas Jacobs
Director, Wildfire Safety Division
California Public Utilities Commission