

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

Order Instituting Rulemaking to Improve Public
Access to Public Records Pursuant to the
California Public Records Act.

Rulemaking 14-11-001

**JOINT OPENING COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY
(U 338-E), PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), SOUTHERN
CALIFORNIA GAS COMPANY (U 904-G), SAN DIEGO GAS AND ELECTRIC
COMPANY (U 902-E) AND SOUTHWEST GAS CORPORATION (U 905-G) ON PHASE
2B DECISION ADOPTING BASELINE SHOWINGS NECESSARY TO QUALIFY FOR
CONSIDERATION OF CONFIDENTIAL TREATMENT**

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Dated: **August 10, 2020**

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I.

INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission’s (“Commission’s”) Rules of Practice and Procedure, Southern California Edison Company (“SCE”), Pacific Gas and Electric Company (“PG&E”), Southern California Gas Company (“SoCalGas”), San Diego Gas & Electric Company (“SDG&E”), and Southwest Gas Corporation (“Southwest Gas”) (hereinafter jointly referred to as “Joint Energy Investor Owned Utilities” or “Joint Energy IOUs”), hereby submit their opening comments on the Proposed Decision of Commissioner Randolph on Phase 2B Adopting Baseline Showings Necessary to Qualify for Consideration of Confidential Treatment, dated July 21, 2020 (“Proposed Decision”). Generally, the Joint Energy IOUs support the conclusions reached in the Proposed Decision and appreciate the

Commission's desire to protect critical infrastructure information.¹ The Joint Energy IOUs recommend a few clarifying changes to ensure appropriate protection of critical infrastructure information, as follows:

- In the new red language on p.4 of Attachment 1, part (2) modify the word “would” to “could” to reflect the fact that there can be uncertainty about the behavior of bad actors;
- In the new red language on p.4 of Attachment 1, part (2), include after the word “information” the following phrase “by itself or in combination with other information”;
- Also, the Proposed Decision should recognize that Critical Infrastructure Information includes both Transmission assets regulated by the Federal Energy Regulatory Commission (“FERC”) and Distribution assets regulated by the Commission, both of which provide critical utility service and are subject to attack, compromise or becoming incapacitated physically or electronically; and
- In the new red language on p. 4 of Attachment 1, part (1), allow a utility officer to delegate the execution of the declaration to a director or manager with documented enterprise-wide training, supervisory responsibility, expertise and knowledge of the critical energy infrastructure matters that are the subject of the declaration.

¹ The Joint Energy IOUs also appreciate that the Proposed Decision's focus is consistent with the intent and guidance for protection of the physical security of utility infrastructure provided and in the process of implementation pursuant to the Commission's Physical Security Order Instituting Rulemaking (OIR), R.15-06-009, which is implementing Public Utilities Code Section 364(a) requiring adoption of new rules to address the physical security risks to the Joint Energy IOUs' electric distribution systems, as applicable.

II.

PROPOSED CHANGES IN ATTACHMENT 1

A. Use of “Could” Rather Than “Would” In Attachment 1 Language

The Joint Energy IOUs prefer to have their declarants indicate that critical infrastructure information could allow a bad actor to attack, compromise or incapacitate physically or electronically a facility providing critical utility service. The possibility that a bad actor could attack a facility providing critical utility service using critical infrastructure information should be sufficient to require protection of that information. The use of the word “would” assumes that bad actors will act in a certain way. The use of the word “could” allow that bad actors may choose to use the information to attack, compromise or incapacitate physically or electronically a facility providing critical utility service, but does not indicate a certainty that they would do so. In either event, the Commission should protect the critical infrastructure information to assure the integrity of the electric grid and natural gas system facilities.

B. Insertion of Phrase “by itself of in combination with other information”

Certain information may not be able to be used by a bad actor on its own to attack the integrity of the electric grid and natural gas system facilities. However, that information could be used in combination with other information that could be either confidential or public to attack the integrity of the electric grid and natural gas system facilities. Some public information is not concerning, in and of itself, but in combination with other information on critical infrastructure, could allow a bad actor to attack, compromise or incapacitate physically or electronically a facility providing critical utility service.

III.

PROPOSED RECOGNITION OF APPLICATION TO DISTRIBUTION

The Proposed Decision cites to federal law and regulation concerning “Protected Critical Infrastructure Information (PCII) to support the need to protect critical infrastructure information.”² PCII is typically electric transmission infrastructure regulated by FERC. However, there is critical infrastructure information that relates to the electric and gas distribution systems regulated by this Commission that should also be protected because it, too, is critical to provision of critical utility service. The Joint Energy IOUs recommend that the Commission modify the Proposed Decision to be clear that the Commission’s intention is to protect both transmission and distribution infrastructure information.

IV.

DELEGATION OF OFFICER DECLARATION TO MANAGER WITH ENTERPRISE-WIDE EXPERTISE AND TRAINING

In recognition of the importance and sensitivity of cybersecurity and physical security risks, the Proposed Decision would require a utility officer to execute a declaration seeking confidentiality for critical energy infrastructure information. Joint Energy IOUs support this recognition of the importance of ensuring that a confidentiality declaration for this sensitive information must be carefully and precisely structured to protect the information while not excessively denying the public their right under the Public Records Act and G.O. 66-D to access public documents.

However, each of the Joint Energy IOUs has particular subject-matter experts with training, expertise and knowledge of critical energy infrastructure matters and risks who may more efficiently and accurately identify and vouch for compliance with the criteria for confidentiality proposed by the Proposed Decision. For this reason, Joint Energy IOUs

² See, Proposed Decision, pp. 7-11.

recommend that the Proposed Decision be revised to allow delegation of the confidentiality declaration to a director or manager, as long as they are documented to have the relevant training, expertise, knowledge and enterprise-wide responsibility for managing and mitigating threats to critical energy infrastructure.

V.

CONCLUSION

The Joint Energy IOUs support adoption of the Proposed Decision with the clarifying changes include in Appendix A containing modifications to the Conclusion of Laws and Proposed Changes to the red language in Attachment 1, p.4.

Respectfully submitted of behalf of SCE, PG&E,
SoCalGas, SDG&E, and Southwest Gas,³

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August 10, 2020

³ PG&E, SoCalGas, SDG&E, and Southwest Gas have authorized SCE to file this pleading on their behalf.

**PROPOSED MODIFICATIONS TO CONCLUSIONS OF LAW
AND ATTACHMENT 1, P. 4**

Conclusions of Law

Add new Conclusion of Law after 6

The disclosure of critical infrastructure information for both transmission and distribution facilities should be prohibited because the need for confidentiality of this information outweighs the necessity for disclosure.

Attachment 1, p.4

If the information submitter asserts that the submitted information is confidential because it is critical infrastructure information, the submitter must make a detailed showing that the subject information: (1) is not customarily in the public domain by providing a declaration from an officer of the utility or a subject-matter expert with training, expertise and knowledge of critical energy infrastructure matters to whom the officer delegates responsibility stating that the subject information is not visible with the naked eye or available publicly online or in print; **and** (2) the subject information by itself or in combination with other information either : ~~would~~ could allow a bad actor to attack, compromise or incapacitate physically or electronically a facility providing critical utility service; or discusses vulnerabilities of a facility providing critical utility service.

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of **JOINT OPENING COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), SOUTHERN CALIFORNIA GAS COMPANY (U 904-G), SAN DIEGO GAS AND ELECTRIC COMPANY (U 902-E) AND SOUTHWEST GAS CORPORATION (U 905-G) ON PHASE 2B DECISION ADOPTING BASELINE SHOWINGS NECESSARY TO QUALIFY FOR CONSIDERATION OF CONFIDENTIAL TREATMENT** on all parties identified on the attached service list for **R.14-11-001**. Service was effected by one or more means indicated below:

- Transmitting the copies via e-mail to all parties who have provided an e-mail address.
- Placing the copies in sealed envelopes and causing such copies to be delivered by U.S. Mail to the offices of the Commissioner(s) or other addressee(s).

**ALJ Marcelo Poirier
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102**

Executed this **August 10, 2020**, at Rosemead, California.

/s/ Mildred King

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CALIFORNIA PUBLIC UTILITIES COMMISSION Service Lists

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