

Decision 18-05-042 May 31, 2018

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

Order Instituting Rulemaking to  
Consider Specified Amendments to  
Rule 18 of General Order 95.

Rulemaking 16-12-001

**DECISION APPROVING A SETTLEMENT AGREEMENT  
THAT AMENDS RULE 18 OF GENERAL ORDER 95**

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**DECISION APPROVING A SETTLEMENT AGREEMENT  
THAT AMENDS RULE 18 OF GENERAL ORDER 95**

**Summary**

This Decision approves a contested Settlement Agreement that amends Rule 18 of General Order 95 (GO 95). The amendments to Rule 18 include:

- The maximum timeframe for utilities to correct Priority Level 2 risks is reduced from 59 months to 36 months.<sup>1</sup> A Priority Level 2 risk is any risk that has at least a moderate potential impact on safety or reliability.
- The maximum timeframe for utilities to correct Priority Level 3 risks is set at 60 months, with certain exceptions. Previously, there was no deadline for correcting Priority Level 3 risks. A Priority Level 3 risk is any risk that has a low potential impact on safety or reliability.
- Commission Staff are authorized to direct utilities to correct violations of GO 95 at specific locations sooner than the maximum timeframes allowed by Rule 18.

The approved Settlement Agreement is contained in Appendix A of this Decision. This Decision finds the Settlement Agreement is reasonable in light of the whole record of this proceeding, consistent with the law, and in the public interest. The 25 parties that signed the Settlement Agreement include the Commission's Safety and Enforcement Division, Pacific Gas and Electric Company, numerous communications utilities, two unions representing utility workers, and several public interest organizations.

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<sup>1</sup> The Settlement Agreement does not affect existing provisions in Rule 18 that require Priority Level 2 risks to be corrected within six months for fire risks located in Tier 3 Fire-Threat Areas, within 12 months for fire risks located in Tier 2 Fire-Threat Areas, and within 12 months for risks that compromise worker safety.

The following parties oppose certain provisions in the Settlement Agreement: PacifiCorp, the California Municipal Utilities Association, the Los Angeles Department of Water and Power, and the Sacramento Municipal Utilities District. This Decision finds that the concerns raised by these parties do not warrant modification or rejection of the Settlement Agreement.

Rulemaking 16-12-001 is closed.

## **1. Background**

### **1.1. Rule 18 of General Order 95**

The Commission's General Order 95 (GO 95) contains rules for the design, construction, inspection, maintenance, repair, and replacement of overhead electric utility facilities and communications utility facilities (together, "overhead utility facilities"). The purpose of GO 95 is to "ensure adequate service and secure safety to persons engaged in the construction, maintenance, operation or use of overhead lines and to the public in general."<sup>2</sup>

Rule 18 of GO 95 requires the correction of overhead utility facilities that pose a risk to safety or reliability, or otherwise do not comply with GO 95. These requirements include:

1. Every communications utility and electric utility (together, "utility")<sup>3</sup> must have an auditable maintenance program for its overhead facilities that (A) includes a timeline for correction of identified safety hazards<sup>4</sup> and GO 95 non-

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<sup>2</sup> GO 95, Rule 11.

<sup>3</sup> Rule 18 uses the term "company" as a catch-all term for communications utilities and electric utilities. Today's Decision uses the term "utility" instead of "company" as a catch-all term for communications utilities and electric utilities. Although cable television corporations (CTCs) as defined by Pub. Util. Code § 216.4 are not mentioned in Rule 18, CTCs must comply with Rule 18 pursuant to Pub. Util. Code § 768.5.

<sup>4</sup> Rule 18 defines the term "safety hazard" as "a condition that poses a significant threat to human life or property."

conformances, and (B) prioritizes and completes corrective actions as follows:

**Priority Level 1** is an immediate risk to safety or reliability with a high probability for significant impact. The utility must take corrective action immediately, either by fully repairing the risk or by temporarily repairing and reclassifying the risk to a lower priority.

**Priority Level 2** is a non-immediate, high to low risk to safety or reliability. The utility must take corrective action, either by fully repairing the risk or temporarily repairing the risk and re-classifying the risk to a lower priority. The repair period must be commensurate with the level of risk and cannot exceed (A) six months for fire risks located in Tier 3 Fire-Threat Areas; (B) 12 months for fire risks located in Tier 2 Fire-Threat Areas; (C) 12 months for risks that compromise worker safety; and (D) 59 months for all other Priority Level 2 risks.

**Priority Level 3** is an acceptable safety or reliability risk. The utility must take action (re-inspect, reevaluate, or repair) as appropriate.

2. Upon completion of a corrective action, the utility's records must show the nature of the work performed, the date(s) the work was performed, and the identity of the persons who did the work.

## **1.2. Rulemaking 16-12-001**

The Commission issued Order Instituting Rulemaking (OIR) 16-12-001 in response to Petition 16-05-004 that was filed by the Commission's Safety and Enforcement Division (SED) pursuant to Pub. Util. Code § 1708.5.<sup>5</sup> The scope of Rulemaking (R.) 16-12-001 consists of the following matters:

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<sup>5</sup> Pub. Util. Code § 1708.5 allows "interested persons to petition the commission to adopt, amend, or repeal a regulation."

1. Whether to eliminate Rule 18 of GO 95 or, alternatively, whether to adopt the following amendments to Rule 18:
  - A. Eliminate Rule 18's timeframes for remediating facilities that pose a risk to safety and/or reliability.
  - B. Replace the term "nonconformance" in Rule 18 with the term "violation" or "potential violation."
2. Alternative and/or additional amendments to Rule 18 to ensure that Rule 18 does not allow utilities to defer or forgo the remediation of overhead facilities that pose a risk to safety and/or reliability.
3. Ancillary amendments to Rule 18, other rules in GO 95, and other general orders, as appropriate, to reflect the previously identified proposed amendments to Rule 18.

Pursuant to the *Assigned Commissioner's Scoping Memo and Ruling* dated April 26, 2017 (Scoping Memo), the overarching purpose of R.16-12-001 is to protect public safety. The Scoping Memo also provided notice that R.16-12-001 would be coordinated with R.15-05-006 wherein the Commission was considering the adoption of stricter fire-safety regulations for high fire-threat areas. The Scoping Memo stated that any revisions to Rule 18 adopted in R.15-05-006 may be superseded by amendments to Rule 18 in R.16-12-001.<sup>6</sup>

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<sup>6</sup> On April 12, 2017, a ruling was issued in R.15-05-006 that notified the parties in that proceeding that "the matters being considered in R.16-12-001 may supersede the revisions to Rule 18 being considered in... R.15-05-006."

### 1.3. Proceeding Chronology

The following table provides a chronology of major events in R.16-12-001:

<b>Chronology of Major Events in R.16-12-001</b>		
<b>Row</b>	<b>Event or Milestone</b>	<b>Date</b>
1.	<ul style="list-style-type: none"> <li>• OIR 16-12-001 approved by the Commission at its business meeting on December 1, 2016.</li> <li>• OIR 16-12-001 issued on December 9, 2016.</li> <li>• OIR 16-12-001 served on the service lists for Petition 16-05-004, R.15-05-006, and R.08-11-005.</li> </ul>	December 2016
2.	Joint Motion submitted by SED and most parties to suspend the proceeding schedule for six months to allow settlement negotiations.	January 25, 2017
3.	Ruling issued by the assigned Administrative Law Judge (ALJ) that (i) revised the proceeding schedule set by OIR 16-12-001 and two ALJ rulings issued in December 2016; (ii) set a prehearing conference (PHC) for April 11, 2017; and (iii) required SED and other parties to file monthly status reports on the settlement negotiations.	February 10, 2017
4.	Notice of settlement conference provided by SED consistent with Rule 12.1(b) of the Commission's Rules of Practice and Procedure.	February 17, 2017
5.	Settlement conference held.	February 27, 2017
6.	Combined PHC statements and comments filed and served by interested parties.	April 3, 2017
7.	PHC held.	April 11, 2017
8.	Scoping Memo issued.	April 26, 2017
9.	<ul style="list-style-type: none"> <li>• Settlement negotiations among the parties.</li> <li>• Monthly status reports filed and served jointly by SED and certain parties.</li> </ul>	April - October 2017
10.	Joint motion for the adoption of a settlement agreement filed and served. The Settlement Agreement was attached to the joint motion.	October 6, 2017



<b>Chronology of Major Events in R.16-12-001</b>		
<b>Row</b>	<b>Event or Milestone</b>	<b>Date</b>
11.	Comments regarding the Settlement Agreement filed and served by the following parties: <ul style="list-style-type: none"> <li>• The California Municipal Utilities Association, Los Angeles Department of Water and Power, and the Sacramento Municipal Utilities District.</li> <li>• PacifiCorp d/b/a/ PacifiCorp Power (U 901 E) (PacifiCorp). PacifiCorp’s comments included a request for workshops or evidentiary hearings.</li> </ul>	October 30, 2017
12.	Reply comments filed and served by 20 parties.	November 14, 2017
13.	ALJ ruling issued that denied PacifiCorp’s request to hold workshops or evidentiary hearings regarding the Settlement Agreement.	December 7, 2017

## **2. The Settlement Agreement**

On October 6, 2017, most of the parties jointly filed and served the *Joint Motion for Commission Adoption of Settlement Agreement* (Joint Motion) pursuant to Rule 12.1 of the Commission’s Rules of Practice and Procedure. Attached to the Joint Motion was the *Settlement Agreement Between the Safety and Enforcement Division of the California Public Utilities Commission and Undersigned Participants on Issues Identified in R.16-12-001* (hereafter, “the Settlement Agreement” or “Settlement”). A copy of the Settlement Agreement is contained in Appendix A of today’s Decision.

### **2.1. The Parties**

The following parties signed the Joint Motion and the Settlement Agreement (together, “the Settling Parties”):

- AT&T California & New Cingular Wireless PCS, LLC (AT&T).
- Bear Valley Electric Service (Bear Valley).
- The California Cable & Telecommunications Association (CCTA).

- Charter Fiberlink CA-CCO and Time Warner Cable Information Services (California), LLC (Charter-Time Warner).
- Comcast Phone of California, LLC (Comcast).
- Cox Communications California, LLC, and Cox California Telecom, LLC (Cox).
- CTIA.
- Crown Castle NG West, LLC (Crown Castle).
- Consolidated Communications of California Company and the Small Local Exchange Carriers (the Small LECs).<sup>7</sup>
- Coalition of California Utility Employees (CCUE).
- Communications Workers of America - District 9 (CWA).
- Frontier California Inc., Citizens Telecommunications Company of California, Inc., and Frontier Communications of the Southwest Inc. (Frontier).
- Open Door Legal.
- Pacific Gas and Electric Company (PG&E).
- Sprint Communications (Sprint).
- SED.
- Sunesys, LLC.
- T-Mobile West, LLC (T-Mobile).
- The Utility Reform Network (TURN).
- Utility Consumers' Action Network (UCAN).
- Verizon Wireless (Verizon).

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<sup>7</sup> The Small LECs include Calaveras Telephone Company; Cal-Ore Telephone Co.; Ducor Telephone Company; Foresthil Telephone Co.; Happy Valley Telephone Company; Hornitos Telephone Company; Kerman Telephone Co.; Pinnacles Telephone Co.; The Ponderosa Telephone Co.; Sierra Telephone Company, Inc.; The Siskiyou Telephone Company; Volcano Telephone Company; and Winterhaven Telephone Company.

The following parties did not sign the Settlement Agreement or file comments regarding the Settlement Agreement<sup>8</sup>:

- ExteNet Systems (California) LLC (ExteNet).
- Liberty Utilities (CALPECO) LLC.
- The Office of Safety Advocates.
- San Diego Gas & Electric Company (SDG&E).
- Southern California Edison Company (SCE).

The following parties did not sign the Settlement Agreement, but did file comments opposing certain parts of the Settlement Agreement:

- PacifiCorp.
- The California Municipal Utilities Association (CMUA).
- Los Angeles Department of Water and Power (LADWP).
- Sacramento Municipal Utilities District (SMUD).

The Commission's Office of Ratepayer Advocates (ORA) did not sign the Settlement Agreement, but ORA did file reply comments expressing ORA's general support for the Settlement Agreement.

## **2.2. Summary of the Settlement Agreement**

The Settlement Agreement resolves all issues in this proceeding with the following proposed amendments to GO 95:

- The Settlement Agreement would replace the term "nonconformance" in Rule 18 with the term "potential violation."
- If a utility discovers that its overhead facilities do not conform to GO 95 because of another utility's facilities, Rule 18 currently requires the first utility to transmit a notice of the non-conformance to the second utility. There is currently no deadline for transmitting such notices. The

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<sup>8</sup> Pursuant to Rule 12.2 of the Commission's Rules of Practice and Procedure, any "failure by a party to file comments constitutes waiver by that party of all objections to the settlement."

Settlement Agreement would require such notices to be transmitted within 10 business days if the potential violation is a Safety Hazard, and within 180 days for all other potential violations of GO 95.

- Rule 18 currently requires every utility with overhead facilities to establish an auditable maintenance program for its facilities that prioritizes and corrects GO 95 nonconformances in accordance with Rule 18. The Settlement Agreement would require each utility to include in its maintenance program a description of the required qualifications for the personnel who perform inspections and/or schedule corrective actions.
- Rule 18 currently requires utilities to maintain records for 10 years that show the date that corrective work was performed, the nature of the work, and the identity of the persons performing the work. The Settlement Agreement would require utility maintenance records to include the date of inspections, the facilities inspected, findings, and the timeline for corrective actions following the identification of a Safety Hazard or potential violation.
- Rule 18 currently defines a Priority Level 1 risk as an “Immediate safety and/or reliability risk with high probability for significant impact.” The Settlement Agreement would amend the definition to state: “An immediate risk of high potential impact to safety or reliability.”
- Rule 18 currently defines a Priority Level 2 risk as a “Variable (non-immediate high to low) safety and/or reliability risk.” The Settlement Agreement would amend the definition to state: “Any other risk of at least moderate potential impact to safety or reliability.”
- Rule 18 currently defines a Priority Level 3 risk as an “Acceptable safety and/or reliability risk” The Settlement Agreement would amend the definition to state: “Any risk of low potential impact to safety or reliability.”
- The Settlement Agreement would add a new Appendix I to GO 95 that contains non-exhaustive lists of typical Priority Level 1, Level 2, and Level 3 risks and Safety Hazards.

- Rule 18 currently requires Priority Level 2 risks to be corrected within the following timeframes: (A) six months for fire risks located in Tier 3 Fire-Threat Areas; (B) 12 months for fire risks located in Tier 2 Fire-Threat Areas; (C) 12 months for risks that compromise worker safety; and (D) 59 months for all other Priority Level 2 risks. The Settlement Agreement does not affect the correction timeframes for (A) - (C), but would reduce the correction timeframe for (D) from 59 months to 36 months.
- Rule 18 does not currently have a timeframe for correcting Priority Level 3 risks. The Settlement Agreement would establish a 60-month timeframe, with specified exceptions that could be corrected on an opportunity basis, i.e., when the utility performs other work where the exception is located. The Settlement Agreement would add a new Appendix J to GO 95 that lists the specified exceptions and explains the rationale for each exception. Additionally, the Settlement Agreement would amend Rule 18 to state that utilities may request additional exceptions through “Commission processes, including, but not limited to, a Tier 2 Advice Letter under GO 96B.”
- The Settlement Agreement would amend Rule 18 to include a new provision that authorizes Commission Staff to direct utilities to correct violations of GO 95 at specific locations sooner than the maximum time periods in Rule 18.
- The Settlement Agreement proposes a conforming revision to Rule 80.1-A(2) to update a cross-reference to the amended Rule 18.

The Joint Motion and the Settlement Agreement include several attachments that show the text of the Settlement Agreement’s proposed amendments to GO 95 in both redline form and final form (i.e., without redline).

The Joint Motion notes that its proposed amendments to GO 95 will necessitate ancillary non-substantive revisions to GO 95 (e.g., revisions to the date on every page of GO 95). The Joint Motion proposes that SED be authorized

to make these ancillary revisions when SED revises GO 95 to incorporate the amendments adopted by the Commission in this proceeding.

The Settlement Agreement has several provisions regarding the implementation of the proposed GO 95 amendments summarized above. The Settlement Agreement asks the Commission to include these implementation provisions in the Findings of Fact, Conclusions of Law, or Ordering Paragraphs of the Commission's decision approving the Settlement Agreement. These implementation provisions are summarized below:

**Provisions Related to Priority Level 3 Exception Requests**

- Utilities that request additional exceptions from the 60-month correction period for Priority Level 3 risks shall serve their requests on SED and the service list for R.16-12-001.
- The justification for additional exceptions may include a showing that the safety risk to an employee performing the repair or the risk to the public while the repair is being performed is greater than the risk to public safety or system reliability from leaving the problem uncorrected for a period that exceeds 60 months.
- Any additional exceptions that are granted shall be posted on the Commission's website or otherwise made public.
- Settling Parties who are members of the GO 95/128 Rules Committee (Committee) agree to ask the Committee to (1) periodically review any exceptions granted, and (2) submit a request to the Commission to add to Appendix J of GO 95 those exceptions of statewide/broader applicability.

**Other Matters Related to Rule 18**

- Rule 18 does not relieve utilities from any requirements or obligations they have under other GO 95 rules.
- The Commission staff who issue citations for violations of GO 95 shall consider and weigh a utility's inclusion of potential GO 95 violations in the utility's auditable

maintenance program as a factor in determining whether to issue a citation and, if so, the penalty for each offense.

- The implementation timeline for adopted amendments to GO 95 should be coordinated with the implementation timeline for GO 95 amendments adopted in R.15-05-006, but in any event no sooner than 12 months from the date of the Commission order adopting the Settlement Agreement.
- Any potential violations that are identified by a utility prior to the effective date of the amendments to GO 95 in the Settlement Agreement shall be repaired based on the requirements that are in effect on the date the potential violations were first identified.

The Settlement Agreement does not propose any amendments to the provisions of Rule 18 that pertain to the High Fire-Threat District because these provisions were addressed in R.15-05-006.<sup>9</sup> The interrelationship of R.15-05-006 and the Settlement Agreement is addressed in Section 4.1 of today's Decision.

## **2.3. Positions of the Parties**

### **2.3.1. The Settling Parties**

The Settling Parties state that the Settlement Agreement is the product of extensive discovery and negotiations among the parties over an eight-month period. For the reasons set forth below, the Settling Parties ask the Commission to find the Settlement Agreement is reasonable in light of the whole record, consistent with the law, and in the public interest.

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<sup>9</sup> In R.15-05-006, the Commission (i) developed and adopted a statewide fire-threat map; (ii) amended GO 95 to incorporate a new High Fire-Threat District (HFTD) that is based, in large part, on the statewide fire-threat map; and (iii) amended GO 95, including Rule 18, to (a) replace all references to Fire Threat Zones with references to the new HFTD, and (b) incorporate new, stricter fire-safety regulations for overhead utility facilities in the HFTD.

**A. Reasonable in Light of the Whole Record**

The Settling Parties submit that Commission precedent establishes that a settlement agreement is reasonable in light of the record when parties have made substantial concessions.<sup>10</sup> In this proceeding, SED initially advocated for the elimination of Rule 18, but SED agreed to improve Rule 18 rather than eliminate the rule. Other Settling Parties likewise made significant concessions during confidential negotiations in order to reach a Settlement Agreement.

The Settling Parties also believe the Settlement Agreement is reasonable because it is the product of the collective efforts of 25 parties, including Commission safety staff, ratepayer advocates, communications utilities, electric utilities, union representatives, industry stakeholder organizations, and parties representing specific communities. Together, these many parties have extensive expertise and experience regarding the substantive issues in this proceeding.

**B. Consistent with the Law**

The Settling Parties assert that the Settlement Agreement is consistent with all applicable laws, including the California Public Utilities Code and prior Commission decisions.

**C. In the Public Interest**

The Settling Parties believe the Settlement Agreement is in the public interest for several reasons. First, the Settling Parties state that the Settlement Agreement will enhance safety because:

- The Settlement Agreement requires transparency regarding the qualifications for utility representatives who perform inspections and/or who schedule corrective actions.

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<sup>10</sup> The Settling Parties cite D.06-08-024 at 8.



- The Settlement Agreement shortens the timeframe for correcting some Priority Level 2 risks.
- The Settlement Agreement requires utilities to correct Priority Level 3 risks, establishes a 60-month timeframe for correcting these risks, and establishes a public list of exceptions to the 60-month timeframe for corrective action.
- The Settlement Agreement provides Commission Staff with authority to require correction of GO 95 violations at specific locations sooner than the maximum time periods in Rule 18.
- The Settlement Agreement strengthens the process for inter-utility notifications of potential violations and Safety Hazards.
- The Settlement Agreement strengthens utility record keeping for their maintenance programs, which will make it easier for Commission Staff to audit utilities' maintenance programs and determine whether violations have occurred.

Second, the Settlement Agreement is consistent with Commission precedent that the public interest is served by settlements that reduce the expense of litigation, conserve scarce Commission resources, and allow parties to eliminate the risk of an unfavorable litigated outcome.<sup>11</sup> The Settling Parties aver that the Settlement Agreement relieves the Commission and dozens of parties of contentions litigation involving complex issues, several days if not weeks of hearings, multiple rounds of written pleadings, and an uncertain outcome.

Finally, the Settling Parties believe the Settlement Agreement is in the public interest because the Settling Parties represent the affected interests.

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<sup>11</sup> The Settling Parties cite D.13-09-028 at 39-40; D.16-12-045 at 21-22; D.13-05-020 at 22, 24-25; D.10-12-051 at 10; and D.10-12-035 at 56.

## **2.3.2. Comments on the Settlement Agreement**

### **2.3.2.1 PacifiCorp**

PacifiCorp stipulates that much of the Settlement Agreement is acceptable. However, PacifiCorp opposes the Settlement Agreement because of the following two provisions in the Settlement Agreement.

#### **1. Reduced Correction Timeframes**

The Settlement Agreement would reduce the timeframe for correcting “other” Priority Level 2 risks from 59 months to 36 months, and reduce the timeframe for correcting Priority Level 3 risks from indefinite to 60 months. PacifiCorp claims these reduced timeframes are inconsistent with the National Electric Safety Code (NESC) that has been adopted by all states except California. PacifiCorp represents that unlike Rule 18 of GO 95, the NESC does not have mandatory timeframes for corrective actions.

PacifiCorp states that it currently synchronizes the correction of Priority Level 2 risks and Priority Level 3 risks with patrol inspection cycles and detailed inspection cycles. PacifiCorp asserts that such synchronization will not be possible with the reduced correction timeframes required by the Settlement Agreement, which will result in inefficiencies that cause PacifiCorp’s maintenance costs to double.

PacifiCorp states that the Legislature and the Commission have previously recognized that PacifiCorp, because of the small size of its operations in California, should not be burdened by uneconomical regulations.<sup>12</sup> PacifiCorp posits that a significant increase in its maintenance costs would be unduly burdensome to PacifiCorp’s 36,000 residential customers in California, of whom

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<sup>12</sup> PacifiCorp does not cite any statutes and cites only one Commission decision (i.e., D.09-12-046 at 2).

approximately 14,000 are eligible for low income assistance under the California Alternative Rates for Energy program.

## **2. Correction of Illegible or Missing High Voltage Signs**

The Settlement Agreement would require electric utilities to correct illegible or missing High Voltage Signs in the electric supply space within 36 months or 60 months, depending on whether the condition is classified as a Priority Level 2 or Level 3 risk. PacifiCorp contends this aspect of the Settlement Agreement is misguided because it will reduce safety and increase costs.

To PacifiCorp's knowledge, California is the only state that requires High Voltage Signs to be placed in the electric supply space of overhead lines. PacifiCorp posits that the fact that the NESC and 49 states do not require High Voltage Signs demonstrates that such signs do not promote safety. As a result, requiring electric utilities to correct illegible or missing High Voltage Signs by a date certain, instead of an opportunity basis, does not enhance safety. To the contrary, the Settlement Agreement would require electric utilities to send workers into the hazardous electric supply space for the sole purpose of correcting illegible or missing High Voltage Signs.

PacifiCorp urges the Commission to reject this requirement because it creates an unnecessary risk to the safety of PacifiCorp's workers. This requirement is also costly. PacifiCorp estimates this requirement, by itself, will cause PacifiCorp's maintenance costs to increase by 62 percent.

### **2.3.2.2 The Joint POU's**

The Joint POU's recommend the following three modifications to the Settlement Agreement.

#### **1. Obstructions of Climbing Space**

The Joint POU's state that obstructions of climbing space can slow or prevent maintenance and repairs in situations where climbing a utility pole is the only option due to location or other circumstances. This problem is compounded during adverse weather conditions.

The Joint POU's are concerned that the Settlement Agreement would allow utilities to classify obstructions of climbing space as a Priority Level 2 risk, or a Priority Level 3 risk, or an exception to Priority Level 3. The Joint POU's recommend that all climbing space obstructions that interfere with access to facilities above the obstruction be classified as Priority Level 1 or Level 2.

#### **2. Exceptions Should Apply to All Utilities**

The Settlement Agreement allows individual utilities to submit a Tier 2 advice letter to request an exception to the Settlement Agreement's 60-month timeframe for correcting Priority Level 3 risks. If an exception is granted, the correction may be performed on an opportunity basis. Any exception granted by the Commission applies only to the utility that made the request.

The Joint POU's oppose this provision in the Settlement Agreement because it would allow correction timeframes to differ from utility to utility. This could lead to a scenario where the same type of equipment on the same pole has two different correction timeframes. The Joint POU's also believe it is unlikely that the need for an exception will be confined to a single utility. The more likely scenario, according to the Joint POU's, is that many utilities will submit duplicate requests for exceptions, each requiring Commission action.

For the previous reasons, the Joint POU's recommend that an exception granted to one utility should apply to all similarly situated utilities.

### **3. SED's New Authority Is Too Broad**

The Settlement Agreement would authorize SED to direct utilities to correct GO 95 violations sooner than required by Rule 18. The Joint POU's are concerned that SED might exercise its new authority arbitrarily. To avoid this outcome, the Joint POU's recommend that SED be required to exercise its new authority in accordance with Rule 31.1 of GO 95 which states, in part, as follows: "[Utility] systems shall be designed, constructed, and maintained for their intended use, regard being given to the conditions under which they are to be operated, to enable the furnishing of safe, proper, and adequate service."

#### **2.3.3. Reply Comments on the Settlement Agreement**

The following parties filed reply comments:

- ORA.
- Joint reply comments by AT&T, Bear Valley, CCTA, Charter-Time Warner, Comcast, the Small LECs, Cox, Crown Castle, Frontier, PG&E, Sprint, T-Mobile, and Verizon (together, the "Settling Utilities").
- Joint reply comments by SED, TURN, CCUE, CWA, UCAN, and Open Door Legal (together, the "Joint Parties").

All the parties that filed reply comments support the Settlement Agreement. Taken together, the reply comments offer a point-by-point rebuttal to PacifiCorp's and the Joint POU's' objections to the Settlement Agreement.

### **3. Commission Review of the Settlement Agreement**

#### **3.1. Standard of Review**

The Commission has long favored the settlement of disputes. This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.<sup>13</sup>

The Commission's standard for the approval of settlements is set forth in Rule 12.1(d) of the Commission's Rules of Practice and Procedure. Rule 12.1(d) states that the Commission "will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with [the] law, and in the public interest." In deciding whether a settlement satisfies this standard, the Commission does not determine if each provision of the settlement is optimal. Rather, the Commission determines if the settlement as a whole is just and reasonable.<sup>14</sup>

#### **3.2. Reasonable in Light of the Whole Record**

We conclude pursuant to Rule 12.1(d) that the Settlement Agreement is reasonable in light of the whole record of this proceeding. The substantive record of this proceeding consists of (1) the *Joint Motion for Commission Adoption of Settlement Agreement*, which includes a statement of factual and legal considerations adequate to advise the Commission of the scope of the Settlement Agreement and the grounds for adoption of the Settlement; and (2) the comments and reply comments regarding the Settlement Agreement.

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<sup>13</sup> D.17-12-008 at 11, D.11-05-018 at 16, and D.88-12-083 at 54.

<sup>14</sup> D.10-04-033 at 9.

The overarching purpose of this proceeding is to protect safety.<sup>15</sup> We find that the Settlement Agreement fulfills the purpose of this proceeding by amending GO 95 in a way that enhances safety and reliability.<sup>16</sup> We discuss several of the GO 95 amendments below.

**Shortened Correction Timeframe for “Other” Priority Level 2 Risks.**

Priority Level 2 risks have at least a moderate potential impact to safety or reliability. The longer a Priority Level 2 risk goes uncorrected, the greater the probability the risk will harm people, property, and/or reliability. The Settlement Agreement enhances safety and reliability by reducing the timeframe for correcting “other” Priority Level 2 risks from 59 months to 36 months.<sup>17</sup>

**Shortened Correction Timeframe for Priority Level 3 Risks.** Priority Level 3 risk have a low potential impact to safety or reliability. Prior to today’s Decision, there was no deadline for correcting Priority Level 3 risks; these risks could remain uncorrected indefinitely. The Settlement Agreement, by establishing a deadline of 60 months to correct Priority Level 3 risks (with several exceptions), enhances safety and reliability relative to the previous situation of having no timeframe whatsoever for correcting these risks. Furthermore, as noted by ORA, establishing a 60-month deadline will facilitate SED’s ability to enforce GO 95 and thereby enhance safety and reliability.<sup>18</sup>

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<sup>15</sup> Scoping Memo at 4.

<sup>16</sup> Reliable public utility service is essential for the safety of individuals and the public at large.

<sup>17</sup> The Settlement Agreement does not affect existing provisions in Rule 18 that require Priority Level 2 risks to be corrected within six months for fire risks located in Tier 3 Fire-Threat Areas, within 12 months for fire risks located in Tier 2 Fire-Threat Areas, and within 12 months for risks that compromise worker safety.

<sup>18</sup> ORA Reply Comments at 2.

**Staff Authority to Shorten Correction Timeframes.** The Settlement Agreement authorizes Commission Staff to direct utilities to correct violations of GO 95 sooner than required by Rule 18. Providing Staff with such authority will enhance safety and reliability relative to the previous situation where Staff had no authority to accelerate the correction of GO 95 violations when doing so is necessary to protect safety or reliability.

**Inter-Utility Notifications.** When a utility discovers that its overhead facilities do not conform to GO 95 because of another utility's facilities, Rule 18 requires the first utility to transmit a notice of the non-conformance to the second utility, but there is no deadline for transmitting this notice. The Settlement Agreement amends Rule 18 to require this notice to be transmitted within 10 business days if the potential violation constitutes a Safety Hazard and within 180 days for all other potential violations of GO 95. The Settlement Agreement, by setting deadlines for transmitting notices of Safety Hazards and other potential violations of GO 95, may shorten the time period that these conditions remain uncorrected and thereby enhance safety and reliability.

**Expanded Record Keeping for Utility Maintenance Programs.** The Settlement Agreement amends Rule 18 to require utility maintenance records to include the date of inspections, the facilities inspected, findings, and the timeline for corrective actions. The inclusion of this additional information in utility maintenance records will facilitate SED's ability to enforce GO 95 and thereby enhance safety and reliability.

**Obligation to Maintain Facilities in a Safe Condition.** The Settlement Agreement does not affect utilities' obligation under Pub. Util. Code § 451 and GO 95 to maintain their facilities in a safe condition at all times. The Commission may issue citations and levy fines for violations of GO 95 in



situations where a utility has scheduled a violation for correction in accordance with the Rule 18 timeframes. In these situations, the Settlement Agreement requires Commission staff who issue citations for violations of GO 95 to consider a utility's inclusion of GO 95 violations in the utility's auditable maintenance program as a factor in determining whether to issue a citation and, if so, the penalty for each offense. This provision will incent utilities to identify and correct GO 95 violations and thereby enhance safety and reliability.

We next address the concerns raised by PacifiCorp and the Joint POU's regarding the Settlement Agreement. For the reasons set forth below, we conclude that these concerns do not warrant rejection or modification of the Settlement Agreement.

### **3.2.1. Correction of High Voltage Signs**

Pub. Util. Code § 8029 and Rule 51.6 of GO 95 require signs with the words "HIGH VOLTAGE" to be placed on utility poles in the electric supply space (hereafter, "High Voltage Signs"). The § 8029 requirement has exemptions, while the Rule 51.6 requirement is broad and, therefore, the governing requirement.

Rule 51.6 states, in part, as follows:

Poles which support line conductors of more than 750 volts shall be marked with high voltage signs. This marking shall consist of a single sign showing the words "HIGH VOLTAGE", or pair of signs showing the words "HIGH" and "VOLTAGE", not more than six (6) inches in height with letters not less than 3 inches in height. Such signs shall be of weather and corrosion-resisting material, solid or with letters cut out therefrom and clearly legible. The top of such sign(s) shall be located between the level of the lowest line conductor, energized in excess of 750 volts, on the pole to no more than 40 inches below that conductor level (see Figure 51-1).

The Settlement Agreement requires electric utilities to correct illegible or missing High Voltage Signs within 36 months if the condition is classified as an “other” Priority Level 2 risk and within 60 months if the condition is classified as a Priority Level 3 risk. The Settlement Agreement also allows correction on an opportunity basis (which can exceed 60 months) for the illegible or missing High Voltage Signs that are (1) in remote locations that are inaccessible by vehicle; or (2) on crossarms or poles above legible High Voltage Signs on a lower crossarm.

PacifiCorp contends that the presence of High Voltage Signs does not protect the safety of utility workers. According to PacifiCorp, the Settlement Agreement will reduce worker safety by forcing electric utilities to send workers into the hazardous space around high voltage lines for the sole purpose of correcting illegible or missing High Voltage Signs.

We find the Settlement Agreement’s provisions regarding the correction of illegible or missing High Voltage Signs are reasonable in light of the whole record. To begin with, these provisions are supported by the Commission’s safety staff (SED), two unions that represent utility workers (CCUE and CWA),<sup>19</sup> and two electric utilities (Bear Valley and PG&E). These parties have extensive expertise regarding matters affecting the safety of utility workers and the public. Furthermore, as explained by the Joint Parties, the public cannot be expected to identify high voltage lines on utility poles. Consequently, High Voltage Signs are needed to provide a prominent visual warning to tree trimmers, workers on

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<sup>19</sup> CCUE is a coalition of unions whose approximately 35,000 members work at essentially all of California’s electric utilities. CWA represents 58,000 workers in California, including thousands who maintain and repair overhead communications facilities. CCUE and CWA are participating in this proceeding in order to ensure (i) a safe working environment, and (ii) safe and reliable service for consumers. (*Motion of the California Coalition of Utility Employees to Become a Party* at 1 – 2, and *Motion of Communications Workers of America, District 9 to Become a Party* at 1 – 2.)

billboards, farmers maneuvering large equipment, residents with high voltage lines near their windows or balconies, first responders, and other members of the public who come within the general vicinity of high voltage lines.<sup>20</sup>

We are persuaded by the Joint Parties that the increased public safety provided by High Voltage Signs exceeds the safety risk to utility workers who correct illegible or missing High Voltage Signs.<sup>21</sup> The Joint Parties note that only qualified electrical workers may work on or near energized lines. To replace High Voltage Signs, qualified electrical workers do not have direct contact with energized lines because the signs are affixed to a pole or a crossarm. Therefore, the risk to qualified electrical workers when replacing High Voltage Signs is much lower relative to other tasks they perform regularly. In fact, the Joint Parties are not aware of any injuries to utility workers associated with the installation or repair of High Voltage Signs. And even though qualified electrical workers have extensive training and knowledge of electrical systems, we agree with the Joint Parties that such workers still benefit from a High Voltage Sign as a prominent visual reminder that they are working in a hazardous space.<sup>22</sup>

The fact that the NESC and other states do not require High Voltage Signs is not persuasive. California has a strong electric safety program, and many

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<sup>20</sup> Joint Parties Reply Comments at 8 - 12.

<sup>21</sup> The Settlement Agreement permits the correction of illegible or missing High Voltage Signs to occur on an opportunity basis in specified circumstances where there is a low risk of harm to public by not correcting the illegible/missing sign, and the low risk to the public is outweighed by the risk of harm to workers tasked with correcting the illegible/missing sign. (Settlement Agreement, Exhibit 4 at pages 1 and 2.)

<sup>22</sup> Joint Parties Reply Comments at 8 - 12. High Voltage Signs also help to protect the safety of persons who work on utility poles but who may not be qualified electrical workers (e.g., persons who install, maintain, or repair communications facilities).

safety issues addressed by GO 95, including High Voltage Sign requirements,<sup>23</sup> are not addressed by the NESC or other states.<sup>24</sup>

### **3.2.2. Cost of Reduced Correction Timeframes**

The Settlement Agreement reduces the Rule 18 timeframe for correcting “other” Priority Level 2 risks from 59 months to 36 months, and reduces the Rule 18 timeframe for correcting Priority Level 3 risks from indefinite to 60 months. PacifiCorp asserts that these reduced timeframes will cause PacifiCorp’s maintenance costs to double because PacifiCorp will not be able to synchronize (i.e., bundle) corrective work with inspection cycles.

We conclude for the following reasons that the reduced correction timeframes are reasonable in light of the whole record. First, we find that the costs incurred by utilities to implement reduced correction timeframes are more than offset by the safety benefits. The longer a Priority Level 2 risk or Level 3 risk goes uncorrected, the greater the probability the uncorrected risk will cause harm to people, property, and/or reliability. The Settlement Agreement, by reducing the timeframes for correcting Priority Level 2 risks and Level 3 risks, reduces the probably of such harm.<sup>25</sup> The reduced probably of harm advances our policy imperative of protecting public safety.<sup>26</sup>

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<sup>23</sup> GO 95 is not the only General Order that requires High Voltage Signs. Rule 35.3 of GO 128 requires High Voltage Signs to be posted inside vaults, manholes, pad mounted transformer compartments, and other enclosures containing exposed live parts above 750 volts. Such warning signs must also be installed on the exterior surface of pad mounted transformer compartments and other above ground enclosures containing high voltage facilities.

<sup>24</sup> Joint Parties Reply Comments at 8 - 12.

<sup>25</sup> Joint Motion at 9 - 11, and ORA Reply Comments at 3.

<sup>26</sup> The *Safety Policy Statement of the California Public Utilities Commission*, dated July 10, 2014, states at page 1 that it is the Commission’s policy to continually reduce the safety risks posed by the utilities regulated by the Commission. The *Safety Policy Statement* is at:

Second, we are persuaded by the ratepayer-advocate parties in this proceeding (i.e., ORA, TURN, and UCAN) that PacifiCorp has not demonstrated that the reduced correction timeframes will cause PacifiCorp's maintenance costs to increase significantly, much less double as claimed by PacifiCorp.<sup>27</sup>

Third, PacifiCorp's assertion that the Settlement Agreement will increase maintenance costs significantly is based, in part, on PacifiCorp's mistaken claim that the Settlement Agreement does not allow opportunity-based correction of illegible or missing High Voltage Signs. In fact, the Settlement Agreement includes a new Appendix J of GO 95 that contains a list of Priority Level 3 risks that may be corrected on an opportunity basis.<sup>28</sup> The first item in Appendix J is "Missing/illegible high voltage marking in a remote location (inaccessible by vehicle)." The third item is "Missing/illegible high voltage sign on crossarms or poles above legible high voltage marking on lower crossarm(s)."<sup>29</sup>

Fourth, PacifiCorp's claim that reduced correction timeframes will cause its maintenance costs to double hinges on PacifiCorp's contention that the reduced correction timeframes will preclude PacifiCorp from synchronizing corrective work with inspection cycles. However, as noted by the Joint Parties and ORA, there is no obvious reason why corrective work cannot be synchronized with inspection cycles.<sup>30</sup>

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[http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Safety/VisionZero4Final621014\\_5\\_2.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/VisionZero4Final621014_5_2.pdf).

<sup>27</sup> Joint Party Reply Comments at 6 – 8 and 11 - 12; and ORA Reply Comments at 2 – 3.

<sup>28</sup> Joint Parties Reply Comments at 11.

<sup>29</sup> Settlement Agreement, Exhibit 4 at 1 – 2.

<sup>30</sup> Joint Parties Reply Comments at 6 – 8 and 11 - 12; and ORA Reply Comments at 2 – 3.

Table 1 of GO 165, as modified by D.17-12-024, mandates the following inspection cycles for overhead electric utility distribution facilities:

<b>Table 1 General Order 165 Distribution Inspection Cycles (Maximum Intervals in Years)</b>						
<b>Overhead Utility Facility</b>	<b>Inspection Type</b>					
	<b>Patrol</b>			<b>Detailed</b>		<b>Intrusive</b>
	<b>Urban</b>	<b>Rural</b>	<b>Fire-Threat Tiers 2 &amp; 3</b>	<b>Urban</b>	<b>Rural</b>	<b>Urban &amp; Rural</b>
Transformers	1	2	1	5	5	--
Switching / Protective Devises	1	2	1	5	5	--
Regulators / Capacitors	1	2	1	5	5	--
Conductor & Cables	1	2	1	5	5	--
Wood Poles Under 15 Years	1	2	--	--	--	--
Wood Poles Over 15 Years with No Intrusive Inspection	1	2	--	--	--	10
Wood Poles that Passed an Intrusive Inspection	--	--	--	--	--	20
<b>GO 165 Definitions (abbreviated)</b>						
<p>"<b>Patrol inspection</b>" is a simple visual inspection that is designed to identify obvious structural problems and hazards.</p> <p>"<b>Detailed inspection</b>" is careful examination of equipment and structures by visual inspection, with routine diagnostic test (if appropriate), and (if practical and useful information can be gathered) by opening so the condition can be rated and recorded.</p> <p>"<b>Intrusive</b>" inspection involves movement of soil, taking samples for analysis, and/or using sophisticated diagnostic tools.</p> <p>"<b>Urban</b>" is an area with a population of more than 1,000 persons per square mile.</p> <p>"<b>Rural</b>" is an area with a population of fewer than 1,000 persons per square mile.</p> <p>"<b>Fire-Threat Tiers 2 &amp; 3</b>" are defined in GO 95, Rule 21.2-D.</p>						

Most of PacifiCorp's service territory is in Tier 2 Fire-Threat areas, Tier 3 Fire-Threat areas, and/or urban areas.<sup>31</sup> In these areas, PacifiCorp should have no difficulty synchronizing the correction of illegible/missing High Voltage Signs with the one-year patrol inspection cycle and the five-year detailed inspection cycle required by GO 165.<sup>32</sup>

In the remaining parts of PacifiCorp's service territory (i.e., rural areas that are not a Tier 2 or Tier 3 Fire-Threat area), GO 165 requires PacifiCorp to conduct patrol inspections of its distribution facilities every two years and detailed inspections every five years. We are not convinced that PacifiCorp will find it unduly burdensome to synchronize corrective actions with the two-year patrol inspection cycle and the five-year detailed inspection cycle,<sup>33</sup> particularly in light of the following provisions in the Settlement Agreement that give PacifiCorp flexibility to schedule corrective work:

- The reduced correction timeframes apply prospectively to Priority Level 2 risks and Priority Level 3 risks that are

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<sup>31</sup> Tier 2 and Tier 3 Fire-Threat Areas are depicted on the CPUC Fire-Threat Map that is available electronically on the CPUC's website.

<sup>32</sup> In urban areas, Fire-Threat Tier 2 areas, and Fire-Threat Tier 3 areas, the 36-month timeframe for correcting Priority Level 2 risks will provide PacifiCorp with three or four opportunities to bundle correction activities with patrol and detailed inspections, depending on the sequence of detailed inspections. The 60-month timeframe for correcting Priority Level 3 risks will provide PacifiCorp with six opportunities to bundle correction activities with patrol and detailed inspections. PacifiCorp may also bundle correction activities with the 10-year or 20-year intrusive inspection cycles for certain wood poles.

<sup>33</sup> In rural, non-high fire-threat areas, the 36-month timeframe for correcting Priority Level 2 risks will provide PacifiCorp with one to three opportunities to bundle correction activities with patrol and detailed inspections, depending on the sequence of these inspections. The 60-month timeframe for correcting Priority Level 3 risks will provide PacifiCorp with three to five opportunities to bundle correction activities with patrol and detailed inspections, depending on the sequence of these inspections. PacifiCorp may also bundle correction activities with the 10-year or 20-year intrusive inspection cycles for certain wood poles.

found on or after June 30, 2019.<sup>34</sup> This will give PacifiCorp a reasonable opportunity to develop systems and procedures to synchronize corrective actions with inspection cycles.

- Most of the increased maintenance costs that PacifiCorp claims it will incur are for the correction of illegible/missing High Voltage Signs. The Settlement Agreement allows an illegible/missing High Voltage Sign to be corrected on an opportunity basis in the following circumstances: (1) the illegible/missing sign is located in a remote location that is inaccessible by vehicle; and (2) the illegible/missing sign is located above a legible High Voltage Sign on the same pole.<sup>35</sup>
- The amended Rule 18 allows correction times to be extended in reasonable circumstances such as third party refusal, customer issues, no access, permits required, and/or system emergencies (e.g., fires or severe weather).<sup>36</sup>

### **3.2.3. Exemption from the Settlement Agreement**

PacifiCorp requests that it be exempted from the Settlement Agreement because PacifiCorp has only 45,000 retail customers who are spread over a large geographic area. PacifiCorp cites D.09-12-046 to support its request.

We agree with the Joint Parties that D.09-12-046 is not relevant for deciding whether PacifiCorp should be exempted from the Settlement Agreement.<sup>37</sup> In D.09-12-046, the Commission held that certain requirements associated with the federal Energy Independence and Security Act of 2007 (EISA)

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<sup>34</sup> Settlement Agreement at page 2, Section I.D. See also Joint Parties Reply Comments at 11 -12. The implementation date for the amendments to Rule 18 adopted by today's Decision is addressed in Section 4.2 of today's Decision.

<sup>35</sup> Settlement Agreement, Exhibit 4. See also Joint Parties Reply Comments at 11, and ORA Reply Comments at 3. It is not clear that PacifiCorp's claim of increased maintenance costs takes into account that PacifiCorp may use opportunity-based correction of illegible/missing High Voltage Signs in some situations. (Joint Parties Reply Comments at 11.)

<sup>36</sup> Settlement Agreement, Exhibit 1 (current Rule 18.A(2)(b)) and Exhibit 2 (revised Rule 18.B(1)(b)).

<sup>37</sup> Joint Parties Reply Comments at 5 - 6.



should not apply to PacifiCorp and other small electric utilities because “imposing EISA requirements on these utilities would not advance the purposes of EISA.”<sup>38</sup> Crucially, D.09-12-046 did not address safety-related issues.

We concur with the Joint Parties<sup>39</sup> that the dispositive precedent is D.12-01-032 wherein the Commission denied PacifiCorp’s request to be exempted from certain fire-safety regulations:

We decline to exempt PacifiCorp... from the requirements in today’s decision... **In order to protect public safety**, we conclude that it is necessary for all electric IOUs, including PacifiCorp..., to assess the risk of wind-ignited power-line fires during extreme fire-weather events and to develop fire-prevention plans in areas where... there is a relatively high risk for such fires. (D.12-01-032 at 54. Emphasis added.)

Consistent with D.12-01-032, we conclude that in order to protect public safety, the amendments to GO 95 adopted by today’s Decision – all of which enhance safety and reliability – should apply to PacifiCorp.

We are not persuaded by PacifiCorp that it should be exempted from the Settlement Agreement because PacifiCorp’s service territory in California is mostly rural with relatively few customers. As noted by the Joint Parties, the large electric utilities in California have facilities and customers in rural areas, too. The safety of PacifiCorp’s facilities and customers is just as important as the safety of large electric utilities’ facilities and customers in rural areas.<sup>40</sup>

It is also telling that many small utilities participating in this proceeding support the Settlement Agreement. These small utilities include Bear Valley, the

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<sup>38</sup> D.09-12-046 at 2.

<sup>39</sup> Joint Parties Reply Comments at 5 – 6.

<sup>40</sup> Joint Parties Reply Comments at 5 – 6.

Small LECs, and industry associations whose members include small communications utilities and small Cable Television Corporations (e.g., CTIA and CCTA).<sup>41</sup> Based on this record, we infer that the Settlement Agreement does not impose unduly burdensome requirements on small utilities.

### **3.2.4. Obstructions of Climbing Space**

Under the Settlement Agreement, utilities have authority to classify obstructions of climbing space on utility poles as Priority Level 1, Level 2, or Level 3, or an exception to Priority Level 3,<sup>42</sup> depending on circumstances.

We decline to adopt the Joint POUs' recommendation to modify the Settlement Agreement so that all climbing space obstructions that interfere with access to facilities above the obstruction must be classified as Priority Level 1 risks or Priority Level 2 risks. As noted by the Settling Utilities, because of the ready availability and frequent use of bucket trucks by utilities, climbing space obstructions should not be classified automatically as Priority Level 1 or Priority Level 2 risks.<sup>43</sup> For example, if a pole is accessible by a bucket truck, and there are no facilities on the pole that would require frequent climbs if bucket trucks were somehow unavailable, it may be appropriate, depending on circumstances, to classify a climbing space obstruction as Priority Level 3 if the risk to worker safety and public safety is very low. Conversely, if a pole is not accessible by a bucket truck and the pole requires frequent climbs, it may be reasonable,

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<sup>41</sup> Other than PacifiCorp, none of the small utilities participating in this proceeding opposes the Settlement Agreement.

<sup>42</sup> The Settlement Agreement lists as an exception to the 60-month timeframe for correcting Priority Level 3 risks those "[c]limbing space obstructions from vegetation with incidental intrusion into the supply space that: (i) does not prevent work from being done and (ii) does not violate Rule 35." (Settlement Agreement, Exhibit 4 at 4.)

<sup>43</sup> Settling Utilities Reply Comments at 7.

depending on circumstances, to classify a climbing space obstruction as Priority Level 2 (or Priority Level 1 if the risk to safety or reliability is significant and immediate).<sup>44</sup> The Settlement Agreement properly allows this risk-based prioritization, which enables utilities to direct their limited resources to the highest safety and reliability risks while also ensuring that utilities correct all identified safety and reliability risks within a reasonable timeframe.<sup>45</sup>

### **3.2.5. New Priority Level 3 Exceptions**

The Settlement Agreement allows individual utilities to submit a Tier 2 advice letter to request an exception from the 60-month timeframe for correcting Priority Level 3 risks. If an exception is granted, the correction may be performed on an opportunity basis. Any exception granted by the Commission applies only to the utility that made the request.

We decline to adopt the Joint POU's' recommendation to modify the Settlement Agreement so that an exception granted to one utility applies to all similarly situated utilities. Although we agree in principle with the Joint POU's' recommendation, the Joint POU's did not explain how the Commission would identify "similarly situated" utilities.<sup>46</sup> As a result, there is not an adequate record at this time to adopt the Joint POU's' recommendation.

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<sup>44</sup> Except to the extent contained in the Settlement Agreement's proposed Appendix J to GO 95, there is not an adequate record in this proceeding to categorize each foreseeable climbing space obstruction as a Priority Level 1, 2, or 3 risk. (Joint Parties Reply Comments on the proposed decision, at 4.)

<sup>45</sup> Settling Utilities Reply Comments at 7. See also Joint Parties Reply Comments at 13 - 14.

<sup>46</sup> Joint Parties Reply Comments at 16, and Settling Utilities Reply Comments at 9.

### **3.2.6. Staff Authority to Shorten Correction Timeframes**

The Settlement Agreement authorizes Commission Staff to direct utilities to correct GO 95 violations at specific locations sooner than the maximum timeframes in Rule 18. The Joint POUs are concerned that Staff might exercise its new authority arbitrarily. To avoid this outcome, the Joint POUs recommend that the Settlement Agreement be modified so that Staff must exercise its new authority in accordance with Rule 31.1 of GO 95.<sup>47</sup>

We decline to adopt the Joint POUs' recommendation. As noted by the Joint Parties and the Settling Utilities, in order to protect safety and reliability, Staff may need to direct utilities to correct GO 95 violations quickly at specific locations for myriad reasons that cannot all be foreseen.<sup>48</sup> The need for swift correction of GO 95 violations may be for reasons that are unrelated to Rule 31.1.

The Commission has previously delegated similar authority to Commission Staff. For example, in D.12-12-030 the Commission approved PG&E's Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan ("Implementation Plan") and delegated to Staff the authority to oversee PG&E's Implementation Plan, to order PG&E "to take such actions as may be necessary to protect immediate public safety," and to "issue immediate stop work orders [to PG&E]... when necessary to protect public

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<sup>47</sup> Rule 31.1 states, in part, as follows: "[Utility] systems shall be designed, constructed, and maintained for their intended use, regard being given to the conditions under which they are to be operated, to enable the furnishing of safe, proper, and adequate service."

<sup>48</sup> Joint Parties Reply Comments at 16 - 17, and Settling Utilities Reply Comments at 10 - 11.

safety.”<sup>49</sup> The Commission delegated identical authority to Staff in D.13-10-024 with respect to Southwest Gas Corporation’s Implementation Plan.<sup>50</sup>

### **3.3. Consistent with the Law**

Based on our review of the Settlement Agreement and the record of this proceeding, we find the Settlement Agreement is consistent with the Public Utilities Code, Commission decisions, and all other applicable laws.

PacifiCorp asserts that the Legislature and the Commission have previously recognized that PacifiCorp, because of the small size of its operations in California, may be exempted from the safety regulations embodied in the Settlement Agreement. However, the only legal authority cited by PacifiCorp is D.09-12-046. We conclude in Section 3.2.3 of today’s Decision that D.09-12-046 does not exempt PacifiCorp from the Settlement Agreement.

### **3.4. The Public Interest**

The Commission may find that a settlement agreement is in the public interest if the settlement (1) has broad support among parties that are fairly reflective of the affected interests, and (2) does not contravene statutory provisions or prior Commission decisions.<sup>51</sup>

We conclude that the Settlement Agreement meets these two criteria and, therefore, is in the public interest. First, the Settlement Agreement has broad support among parties that are fairly reflective of the affected interests. The affected interests include worker safety and public safety,<sup>52</sup> utility customers,<sup>53</sup>

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<sup>49</sup> D.12-12-030 at Ordering Paragraph (OP) 8.

<sup>50</sup> D.13-10-024 at OP 4.

<sup>51</sup> D.10-06-015 at 11-12, citing D.92-12-019 at 7.

<sup>52</sup> The interests of worker safety and public safety are represented by CCUE, CWA, and SED.

and entities subject to GO 95 (i.e., cable television corporations, communications utilities, and electric utilities).<sup>54</sup> Second, the Settlement Agreement does not contravene statutory provisions or prior Commission decisions for the reasons stated in Section 3.3 of today's Decision.

### **3.5. Conclusion**

For the reasons stated previously in today's Decision, we find the Settlement Agreement is reasonable in light of the whole record, consistent with the law, and in the public interest. Therefore, we will (1) approve the Settlement Agreement pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure, and (2) grant the Settling Parties' *Joint Motion for Commission Adoption of Settlement Agreement*. Our approval of the Settlement Agreement has the effect of adopting the following provisions in the Settlement Agreement:

- The amendments to Rule 18 of GO 95 in the Settlement Agreement, Exhibits 1 and 2.
- The new Appendices I and J of GO 95 in the Settlement Agreement, Exhibits 3 and 4.
- The amendment to Rule 80.1-A(2) of GO 95 in the Joint Motion, Attachments B and C.
- The requirement that utility requests for additional exceptions from the 60-month timeframe for correcting Priority Level 3 risks shall be served on SED and the service list for R.16-12-001. The justification for additional exceptions may include a showing that the safety risk to an employee performing the repair or the risk to the public

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<sup>53</sup> The interests of utility customers are represented by ORA, TURN, and UCAN.

<sup>54</sup> The interests of cable television corporations are represented by the industry association CCTA. The interests of communications utilities are represented by more than 20 communications utility parties and the industry association CTIA. The interests of electric utilities are represented by Bear Valley and PG&E. Three electric utility parties (Liberty Utilities, SCE, and SDG&E) did not file comments opposing the Settlement Agreement.

while the repair is being performed exceeds the risk to public safety or system reliability from leaving the Priority Level 3 risk uncorrected for more than 60-months. (Settlement Agreement, Section I.B.)

- The requirement that any additional Priority Level 3 exceptions that are granted shall be posted on the Commission's website or otherwise made public. (Settlement Agreement, Section I.B.)
- The requirement that Settling Parties who are members of the GO 95/128 Rules Committee shall ask the Committee to (1) review periodically any Priority Level 3 exceptions granted, and (2) submit requests to the Commission to have exceptions of statewide/broader applicability added to Appendix J of GO 95. (Settlement Agreement, Section I.B.)
- Notice that Rule 18 of GO 95 does not relieve utilities from any requirements or obligations under other GO 95 rules. (Settlement Agreement, Section I.C.)
- The requirement that Commission Staff who are authorized to issue citations for violations of GO 95 shall consider and weigh a utility's inclusion of potential GO 95 violations in the utility's auditable maintenance program as a factor in deciding whether to issue a citation and, if so, the penalty for each offense. (Settlement Agreement, Section I.C.)
- Notice that any potential violations that are identified by a utility prior to the implementation date of the amendments to GO 95 in the Settlement Agreement shall be repaired based on the requirements that are in effect on the date the potential violations is first identified.<sup>55</sup> (Settlement Agreement, Section I.D.)

Pursuant to Rule 12.5 of the Commission's Rules of Practice and Procedure, the approved Settlement Agreement is binding on all parties in this

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<sup>55</sup> We interpret this provision in the Settlement Agreement as allowing repairs to occur sooner than required.

proceeding. The amendments to GO 95 adopted by today's Decision apply to all entities subject to GO 95.

#### **4. Implementation of the Settlement Agreement**

##### **4.1. Adopted Amendments to Rule 18, as Modified by D.17-12-024 (Corrected by D.18-02-001)**

The Settlement Agreement defers to R.15-05-006 any amendments to Rule 18 that relate specifically to the High Fire-Threat District (HFTD).

In R.15-05-006, the Commission developed and adopted a statewide fire-threat map. In D.17-12-024, which was issued in R.15-05-006, the Commission amended GO 95 to incorporate (i) a new HFTD that is based, in large part, on the statewide fire-threat map; and (ii) stricter fire-safety regulations for overhead utility facilities located in the HFTD. Of particular relevance to today's Decision, D.17-12-024 adopted the following amendments to Rule 18:

- The provisions in Rule 18 regarding Extreme and/or Very High Fire-Threat Zones in Southern California were either deleted or replaced with provisions that pertain to the statewide HFTD.
- A new provision was added to Rule 18 that requires fire risks located in Tier 3 of the HFTD to be corrected within six months.

In D.18-02-001, the Commission corrected two typographical errors in the amendments to Rule 18 adopted by D.17-12-024. The amendments to Rule 18 adopted by D.17-12-024, as corrected by D.18-02-001, do not substantively affect the amendments to Rule 18 adopted by today's Decision and vice versa.

Appendix B of today's Decision contains the text of Rule 18, as modified by D.17-12-024, with the amendments to Rule 18 adopted by today's Decision shown in redline form. Appendix C of today's Decision contains the text of Rule 18, as modified by D.17-12-024, with the amendments to Rule 18 adopted by



today's Decision shown in final form (i.e., without redline). Today's Decision adopts the amended Rule 18 in Appendix C of today's Decision.

Appendix D of today's Decision contains the Settlement Agreement's Appendix I of GO 95 with modifications to incorporate the previously identified amendments Rule 18 adopted by D.17-12-024. The modifications are shown in redline form. Appendix E of today's Decision contains the modified Appendix I of GO 95 in final form (i.e., without redline). Today's Decision adopts the modified Appendix I of GO 95 that is in Appendix E of today's Decision.

#### **4.2. Implementation Date for the Adopted Amendments**

Section I.D of the approved Settlement Agreement contains the following provisions regarding the implementation of the Settlement Agreement:

The... implementation timeline for the Proposed Amended Rule 18 of [GO 95] and the associated Appendix I and Appendix J should be coordinated with the implementation timeline for [GO 95] changes that are... adopted as part of R.15-05-006. The Settling Parties further agree that in no case should the implementation date be sooner than twelve months from the date of the Commission order adopting this Settlement Agreement.

The Settling Parties also agree that any potential violations that were identified by an electric utility or a communications company prior to the effective date of the amendments to [GO 95] contained in this Settlement Agreement shall be repaired based on the requirements that were in effect on the date that the potential violations were first identified.

In D.17-12-024, issued in R.15-05-006, the Commission adopted amendments to GO 95 that go into effect on June 30, 2019,<sup>56</sup> which is approximately 12 months from today's Decision. Therefore, consistent with

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<sup>56</sup> D.17-12-024 at Ordering Paragraph 4.ii.

Section I.D of the Settlement Agreement, and pursuant to Rule 6.3(a) of the Commission's Rules of Practice and Procedure, the amendments to GO 95 adopted by today's Decision shall go into effect on June 30, 2019. Any potential GO 95 violations that are identified prior to June 30, 2019, shall be repaired based on the requirements in effect on the date the potential violations are first identified.<sup>57</sup> Any potential violations identified on or after June 30, 2019, shall be corrected in accordance with the amended GO 95 adopted by today's Decision.

#### **4.3. Revising GO 95 to Incorporate the Adopted Amendments**

The Director of SED or the Director's designee (together, "Director") shall amend GO 95 to incorporate the following:

- The new Appendix J of GO 95 contained in Appendix A, Exhibit 4 of today's Decision.
- The amendment to Rule 80.1-A(2) shown in Appendix A, Attachments B and C of today's Decision.
- The amendments to Rule 18 shown in Appendices B and C of today's Decision.
- The new Appendix I of GO 95 contained in Appendices D and E of today's Decision.
- Ancillary revisions to GO 95 that are necessary to incorporate the previously identified amendments. These ancillary revisions include updating GO 95's cover page, change list, pagination, page numbers shown in GO 95's table(s) of contents and index; and adding a note under each GO 95 rule adopted or amended by today's Decision that identifies the decision number and date of today's Decision.
- The ancillary revisions to GO 95's change list shall include the implementation date of June 30, 2019, for the GO 95 amendments adopted by today's Decision.

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<sup>57</sup> Today's Decision does not preclude utilities from making repairs sooner than required.

The Director of SED shall publish the amended GO 95 on the Commission's website within 60 days from the date this Decision is issued (as shown on the first page of this Decision).

#### **4.4. Processing and Disposition of Tier 2 Advice Letters**

The new Appendix J of GO 95 that is adopted by today's Decision contains a list of Priority Level 3 exceptions that may be corrected on an opportunity basis, which can exceed 60 months. Section I.B of the Settlement Agreement states that utilities may request additional exceptions by submitting a Tier 2 Advice Letter. However, the Settlement Agreement does not specify the Commission Divisions that will be responsible for the disposition of Tier 2 Advice Letters that request additional Priority Level 3 exceptions.

To avoid ambiguity, we will require electric utilities to submit these Tier 2 Advice Letters to the Energy Division's Tariff Unit, and communications utilities to submit these Tier 2 Advice Letters to the Communications Division's Tariff Unit. A utility submitting an advice letter shall serve a copy on (i) SED's Director, SED's Electric Safety and Reliability Branch (ESRB), and SED's Risk Assessment and Safety Advisory Section (RASA); (ii) the service list for R.16-12-001; and (iii) the utility's GO 96B service list.

The Industry Division Tariff Unit where these advice letters are submitted shall handle the administrative processing of the advice letters, including posting notice of advice letters on the Commission's website and posting notice of the Commission's disposition of the advice letters.

The Directors of the Energy Division and the Communications Division may allocate responsibilities within their own Division. In addition, the Directors of the Energy Division and the Communications Division shall consult

with the Director of SED to obtain appropriately knowledgeable SED advisory staff to assist with the review of the advice letters.

Section I.B of the Settlement Agreement states that “[a]ny additional exceptions that are granted shall be posted on the Commission’s website or otherwise made public.” To implement this provision, we will require the Director of SED, or another designee of the Commission’s Executive Director, to update the list of exceptions in Appendix J of GO 95 and publish the updated GO 95 on the Commission’s website. The update shall include any ancillary revisions to GO 95 that may be needed (e.g., revising GO 95’s cover page, change list, etc.)

## **5. Categorization and Need for Hearings**

The Commission preliminarily determined in OIR 16-12-001 that the category of this rulemaking proceeding is quasi-legislative, which was affirmed by the Scoping Memo. No party appealed this categorization.

The Commission preliminarily determined in OIR 16-12-001 that hearings are not needed in this proceeding. The Scoping Memo determined that evidentiary hearings were not necessary at that time, but might be needed at a later date. Approximately six months after the Scoping Memo was issued, PacifiCorp requested workshops or evidentiary hearings regarding the Settlement Agreement,<sup>58</sup> which was denied in a ruling issued by the assigned ALJ on December 7, 2017. The ALJ ruling found that PacifiCorp had not demonstrated good cause to hold workshops or evidentiary hearings, and that the Commission may forego evidentiary hearings in this rulemaking proceeding pursuant to Pub. Util. Code § 1708.5(f). Section 1708.5(f) states:

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<sup>58</sup> PacifiCorp Comments at 7.

[T]he commission may conduct any proceeding to adopt, amend, or repeal a regulation using notice and comment rulemaking procedures, without an evidentiary hearing, except with respect to a regulation being amended or repealed that was adopted after an evidentiary hearing, in which case the parties to the original proceeding shall retain any right to an evidentiary hearing accorded by Section 1708.

The amendments to GO 95 adopted by today's Decision do not amend or repeal any provisions in GO 95 that were adopted after an evidentiary hearing. Therefore, pursuant to Pub. Util. Code § 1708.5(f), today's Decision affirms there is no need for an evidentiary hearing in this quasi-legislative rulemaking proceeding.

## **6. Comments on the Proposed Decision**

The proposed decision (PD) of the assigned Commissioner in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code, and comments were allowed pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on May 17, 2018, by the Joint POU's, PacifiCorp, and the Settling Parties. Reply comments were filed on May 22, 2018, by the Joint Parties.<sup>59</sup>

Today's final Decision incorporates the following revisions in response to the comments and reply comments on the PD:

- Certain references to D.17-12-024 are revised to reflect that D.17-12-024 was corrected by D.18-02-001.<sup>60</sup>
- Finding of Fact 2 is revised to clarify that Finding of Fact 2 does not preclude or prejudice future requests for Priority Level 3 exceptions related to High Voltage

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<sup>59</sup> The Joint Parties consist CCUE, CWA, Open Door Legal, SED, TURN, and UCAN.

<sup>60</sup> Settling Parties Comments on the PD at 3.

Signs that may be submitted by utilities pursuant to Section I.B of the Settlement Agreement.<sup>61</sup>

- Finding of Fact 6 is revised to replace the text “It is unlikely” with “PacifiCorp has not demonstrated”. Conforming revisions are made to the text in Section 3.2.2 of today’s Decision.<sup>62</sup>
- A new Finding of Fact 9 is added that states there is not an adequate record in this proceeding to categorize each foreseeable climbing space obstruction as a Priority Level 1, 2, or 3 risk, except as specified in the Settlement Agreement’s proposed Appendix J of GO 95. Existing Findings of Fact are renumbered accordingly. Related changes are made to the text of Section 3.2.4 of today’s Decision.<sup>63</sup>
- Redline format is removed from the word “completion” in Appendix A, page 8, of today’s Decision.<sup>64</sup>
- The corrections to Rule 18 adopted by D.18-02-001 are incorporated into the Rule 18 contained in Appendices B and C of today’s Decision.<sup>65</sup>

The comments and reply comments on the PD recommend several additional revisions to the PD that we decline to adopt because these revisions do not address any factual, legal, or technical errors in the PD.<sup>66</sup>

Today’s Decision also incorporates the following changes:

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<sup>61</sup> PacifiCorp Comments on the PD at 3 – 5, and Joint Parties Reply Comments on the PD at 1.

<sup>62</sup> PacifiCorp Comments on the PD at 5 – 7, and Joint Parties Reply Comments on the PD at 2.

<sup>63</sup> Joint POU’s Comments on the PD at 3 – 6, and Joint Parties Reply Comments on the PD at 3 - 4.

<sup>64</sup> Settling Parties Comments on the PD at 4.

<sup>65</sup> PacifiCorp Comments on the PD at 7 – 8, and Settling Parties Comments on the PD at 3.

<sup>66</sup> Rule 14.3(c) of the Commission’s Rules of Practice and Procedure provides that “Comments [on a proposed decision] shall focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight.”

- The Communications Division and the Energy Division are assigned greater responsibility for the processing of Tier 2 Advice Letters submitted by utilities pursuant to Section I.B of the Settlement Agreement.
- Several typographical errors and miscellaneous other errors are corrected.

## **7. Assignment of Proceeding**

Michael Picker is the assigned Commissioner for this proceeding and Timothy Kenney is the assigned Administrative Law Judge.

### **Findings of Fact**

1. The Settlement Agreement's proposed amendments to GO 95 will enhance worker safety, public safety, and the reliability of overhead utility facilities.
2. With certain exceptions listed in Appendix J of GO 95 that may be corrected on an opportunity basis (including future exceptions that may be added to Appendix J in accordance with Section I.B of the Settlement Agreement), the increased public safety provided by High Voltage Signs exceeds the safety risk to qualified electrical workers who correct illegible or missing High Voltage Signs.
3. California has a strong electric safety program. GO 95 has many safety measures that are not in the NESC.
4. The Settlement Agreement, by reducing the timeframes for correcting Priority Level 2 risks and Priority Level 3 risks, reduces the probability that an uncorrected risk will harm people, property, and/or reliability.
5. The costs incurred by utilities to implement the Settlement Agreement's reduced correction timeframes are offset by the substantial benefits to safety and reliability from the reduced correction timeframes.

6. PacifiCorp has not demonstrated that the Settlement Agreement will cause PacifiCorp's maintenance costs to increase significantly.

7. The Settlement Agreement provides reasonable opportunities for electric utilities to bundle the correction of Priority Level 2 risks and Priority Level 3 risks with GO 165 inspections.

8. Because utilities have ready access to bucket trucks, obstructions of climbing space on utility poles should not be classified automatically as Priority Level 1 risks or Priority Level 2 risks.

9. With the exception of the climbing space obstructions identified in the Settlement Agreement's proposed Appendix J to GO 95, there is not an adequate record in this proceeding to categorize each foreseeable climbing space obstruction as a Priority Level 1, 2, or 3 risk.

10. There is not an adequate record in this proceeding to adopt the Joint POU's recommendation that any Priority Level 3 exception obtained by a Tier 2 advice letter should apply automatically to all similarly situated utilities.

11. For myriad reasons that cannot all be foreseen, Commission Staff may need to direct utilities to accelerate the correction of GO 95 violations at specific locations in order to protect safety and reliability.

12. The Settling Parties are fairly reflective of the affected interests.

13. The amendments to GO 95 adopted by today's Decision will necessitate ancillary non-substantive revisions to GO 95, including revisions to GO 95's cover page, change list, pagination, table(s) of contents, index, etc.

14. Sections I.B - I.D of the Settlement Agreement contain provisions that are integral to the Settlement Agreement's amendments to GO 95. The Settlement Agreement asks the Commission to include these provisions in the Findings of Fact, Conclusions of Law, or Ordering Paragraphs of today's Decision.



15. The Settlement Agreement defers to R.15-05-006 any amendments to Rule 18 that relate specifically to the HFTD.

16. In D.17-12-024, issued in R.15-05-006, the Commission amended Rule 18 to incorporate (i) the HFTD, and (ii) a six-month correction timeframe for Priority Level 2 fire risks located in Tier 3 of the HFTD.

17. The Settlement Agreement's amended Rule 18 does not incorporate the amendments to Rule 18 that were adopted by D.17-12-024.

18. The Settlement Agreement's new Appendix I of GO 95 does not incorporate the amendments to Rule 18 that were adopted by D.17-12-024.

19. The amendments to GO 95 adopted by D.17-12-024 go into effect no later than June 30, 2019, which is approximately 12 months from the issuance date of today's Decision.

20. The Settlement Agreement allows utilities to request additional Priority Level 3 exceptions by submitting Tier 2 advice letters, but the Settlement Agreement does not specify the Commission Divisions that will be responsible for the processing and disposition of these advice letters.

21. None of the provisions of GO 95 that are amended by today's decision were adopted after an evidentiary hearing.

### **Conclusions of Law**

1. PacifiCorp's and the Joint POU's proposed modifications to the Settlement Agreement should not be adopted for the reasons stated in (i) Section 3.2.1 though Section 3.2.6 of today's Decision, and (ii) the preceding Findings of Fact.

2. Decision 09-12-046 does not exempt PacifiCorp from the enhanced safety regulations embodied in the Settlement Agreement.

3. The Settlement Agreement is reasonable in light of the whole record, consistent with the law, and in the public interest.

4. The *Joint Motion for Commission Adoption of Settlement Agreement* filed on October 6, 2017, should be granted. The Commission should approve the Settlement Agreement attached to this motion.

5. The Commission's approval of the Settlement Agreement has the effect of adopting (i) the provisions in Sections I.B - I.D of the Settlement Agreement; (ii) the amendments to GO 95 in Exhibits 1- 4 of the Settlement Agreement; and (iii) the amendments to GO 95 in Attachments B and C of the Joint Motion.

6. The approved Settlement Agreement should be binding on all parties in this proceeding pursuant to Rule 12.5 of the Commission's Rules of Practice and Procedure. The amendments to GO 95 adopted by today's Decision should apply to all entities that are subject to GO 95.

7. The amendments to Rule 18 adopted by D.17-12-024, as corrected by D.18-02-001, do not substantively affect the amendments to Rule 18 adopted by today's Decision and vice versa.

8. Appendix C of today's Decision contains the text of Rule 18, as modified by D.17-12-024 (as corrected by D.18-02-001), with the amendments to Rule 18 adopted by today's Decision. Today's Decision should adopt the amended Rule 18 in Appendix C.

9. Appendix E of today's Decision contains the text of the Settlement Agreement's new Appendix I of GO 95, with said text modified to incorporate the amendments to Rule 18 adopted by D.17-12-024. Today's Decision should adopt the modified Appendix I of GO 95 in Appendix E of today's Decision.

10. The amendments to GO 95 and the related provisions in Sections I.B - I.D of the Settlement Agreement adopted by today's Decision should go into effect on June 30, 2019. Potential GO 95 violations identified prior to June 30, 2019, should be repaired in accordance with the requirements then in effect.

11. The Director of SED, or another designee of the Commission's Executive Director, should (i) revise GO 95 to incorporate the amendments specified in Section 4.3 of today's Decision, and (ii) publish the amended GO 95 on the Commission's website within 60 days from the date this Decision is issued, as shown on the first page of this Decision.

12. The following procedures should apply to Tier 2 advice letters that request additional Priority Level 3 exceptions:

- i. Electric utilities should submit these advice letters to the Commission Energy Division's Tariff Unit. Communications utilities should submit these advice letters to the Communications Division's Tariff Unit.
- ii. Utilities submitting these advice letters should serve copies on (i) SED's Director, ESRB, and RASA; (ii) the service list for R.16-12-001; and (iii) the submitting utility's GO 96B service list.
- iii. Each Industry Division Tariff Unit where these advice letters are submitted should handle the administrative processing of the advice letters submitted to the Tariff Unit. The Directors of the Energy Division and the Communications Division should consult with the Director of SED to obtain appropriate SED advisory staff to assist in the review of these advice letters, as necessary.
- iv. If a requested exception is approved, the Director of SED, or another designee of the Commission's Executive Director, should (A) update the list of Priority Level 3 exceptions in the Appendix J of GO 95; (B) make any ancillary revisions to GO 95 that may be needed (e.g., revising GO 95's cover page, change list, etc.); and (C) publish the updated GO 95 on the Commission's website.

13. Pursuant to Pub. Util. Code § 1708.5(f), there is no need for an evidentiary hearing in this quasi-legislative rulemaking proceeding.

14. The following Order should be effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The *Joint Motion for Commission Adoption of Settlement Agreement* filed on October 6, 2017, is granted.
2. The Settlement Agreement in Appendix A of this Decision is approved.
3. The following amendments to General Order 95 (GO 95) are adopted:
  - i. The new Appendix J of GO 95 in Appendix A, Exhibit 4 of this Decision.
  - ii. The amended Rule 80.1-A(2) in Appendix A, Attachment C of this Decision
  - iii. The amended Rule 18 in Appendix C of this Decision.
  - iv. The new Appendix I of GO 95 in Appendix E of this Decision.
  - v. Ancillary non-substantive revisions to GO 95 that are necessary to incorporate the previously identified amendments, such as revisions to GO 95's cover page, change list, etc. The ancillary revisions to GO 95's change list shall include the implementation date of June 30, 2019, for the amendments adopted by today's Decision.
4. The amendments to General Order 95 (GO 95) adopted by today's Decision shall go into effect on June 30, 2019. Any safety hazards and potential GO 95 violations identified by a utility prior to June 30, 2019, shall be corrected in accordance with the requirements in effect on the date the safety hazards and potential violations are first identified.
5. The approved Settlement Agreement is binding on all parties in this proceeding. The amendments to General Order 95 (GO 95) adopted by today's Decision apply to all entities that are subject to GO 95.

6. The Director of the Commission's Safety and Enforcement Division, or another designee of the Commission's Executive Director, shall (i) revise General Order 95 (GO 95) to incorporate the amendments specified in Ordering Paragraph 3, and (ii) publish the amended GO 95 on the Commission's website within 60 days from the date this Decision is issued, as shown on the first page of this Decision.

7. The following procedures are adopted for the processing and disposition of Tier 2 advice letters that request additional Priority Level 3 exceptions pursuant to Section I.B of the Settlement Agreement:

- i. Electric utilities shall submit these advice letters to the Energy Division's Tariff Unit. Communications utilities shall submit these advice letters to the Communications Division's Tariff Unit.
- ii. Utilities submitting these advice letters shall serve a copy on (A) the Director of the Commission's Safety and Enforcement Division (SED), SED's Electric Safety and Reliability Branch, and SED's Risk Assessment and Safety Advisory Section; (B) the service list for Rulemaking 16-12-001; and (C) the submitting utility's General Order GO 96B service list.
- iii. Each Industry Division Tariff Unit where these advice letters are submitted shall be responsible for the administrative processing of the advice letters submitted to the Tariff Unit. The Directors of the Energy Division and the Communications Division shall consult with the Director of SED to obtain appropriate SED advisory staff to support the processing of these advice letters.
- iv. If a Priority Level 3 exception requested by an advice letter is approved, the Director of SED, or another designee of the Commission's Executive Director, shall (A) update the list of Priority Level 3 exceptions in Appendix J of General Order 95 (GO 95); (B) make any additional ancillary revisions to GO 95 that may be needed; and (C) publish the updated GO 95 on the Commission's website.

8. There is no need for an evidentiary hearing in this proceeding.
9. Rulemaking 16-12-001 is closed.

This order is effective today.

Dated May 31, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

## **Appendix A: The Settlement Agreement**

**Note:** The attached Settlement Agreement includes non-substantive changes to the formatting and page numbering compared to the document that was filed and served.

**Note:** The attached Settlement Agreement does not include the signature pages that were signed by the Settling Parties' representatives. The signature pages are included in the original document filed at the Commission. Copies of the signature pages were included in the Settlement Agreement that was served on the service list for this proceeding.

**Note:** The term "General Order 95" appears in the titles for Attachment A, Exhibits 1 and 2. For consistency, the term "General Order 95" is included in the titles of Exhibits 3 and 4.

**SETTLEMENT AGREEMENT BETWEEN THE SAFETY AND  
ENFORCEMENT DIVISION OF THE CALIFORNIA PUBLIC UTILITIES  
COMMISSION AND UNDERSIGNED PARTICIPANTS ON ISSUES  
IDENTIFIED IN R.16-12-001**

The Safety and Enforcement Division (“SED”) of the California Public Utilities Commission (“Commission”) and the undersigned participants in Rulemaking 16-12-001 are hereinafter collectively referred to as the “Settling Parties.” On the following terms and conditions, the Settling Parties hereby agree to settle and resolve all issues within the scope of Commission proceeding R.16-12-001 entitled “*Order Instituting Rulemaking to Consider Specified Amendments to Rule 18 of General Order 95*” (“Rulemaking”). This Settlement Agreement shall become effective upon approval by the Commission in a written decision that has become final and is no longer subject to appeal.

**I. AGREEMENT**

A. Amendments to General Order 95

Attached to this Settlement Agreement are the Proposed Amended Rule 18 of General Order 95 (Exhibits 1 and 2), the Proposed Appendix I – Examples of Rule 18 Priority Levels and Safety Hazards (Exhibit 3), and the Proposed Appendix J – Exceptions from the Maximum Time Period for Corrective Actions for Level 3 Conditions in Rule 18 (Exhibit 4). The Settling Parties agree on replacement of the current Rule 18 language with the proposed amended language and addition of the attached Appendix I and Appendix J to General Order 95.

The Settling Parties deferred any General Order 95, Rule 18 amendments relating specifically to the High Fire Threat District to R.15-05-006 entitled “*Order Instituting Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety Regulations*”.

B. Process for Requesting Exceptions in Addition to Those Included in Appendix J

The Settling Parties agree that any electric utility or communications company that identifies other conditions that it believes should be exempted from the maximum correction period specified in Rule 18 of General Order 95 for Level 3 conditions shall follow established Commission procedures, including, but not



limited to, a Tier 2 Advice Letter under General Order 96B. Any electric utility or communications company that requests an exemption shall serve SED and the service list for the Rulemaking (the current version of which is attached hereto as Exhibit 5) with any such requests for additional exceptions.

The justification for any such request may include, for example, a showing that the safety risk to an employee performing the repair or the risk to the public while the repair is being performed is greater than the risk to public safety or system reliability in leaving the problem uncorrected for a period of time longer than the maximum specified for the correction of Level 3 conditions.

Any additional exceptions that are granted shall be posted on the Commission's website or otherwise made public. Settling Parties who are members of the Rules Committee For GO 95/128 agree to request that the Rules Committee For GO 95/128 periodically review any exceptions granted and to recommend that the Rules Committee For GO 95/128 request that those exceptions of statewide/broader applicability be added to General Order 95 Appendix J through a petition or other appropriate process.

C. Other Matters Pertaining to Compliance with Rule 18 of General Order 95

The Settling Parties agree to the following two provisions pertaining to compliance with Rule 18 and corresponding enforcement by SED:

- Rule 18 of General Order 95 does not relieve any electric utility or communications company from any requirements or obligations that it has under other General Order 95 rules.
- Commission staff that has been authorized by the Commission to issue citations for violations of General Order 95 shall consider and weigh a company's inclusion of a General Order 95 potential violation in its auditable maintenance program as a factor in determining whether to issue a citation and, if so, the penalty assessed for each offense.

D. Implementation Timeline

The Settling Parties agree that the implementation timeline for the Proposed Amended Rule 18 of General Order 95 and the associated Appendix I and Appendix J should be coordinated with the implementation timeline for General Order 95 changes that are anticipated to be adopted as part of R.15-05-006. The Settling Parties further agree that in no case should the

implementation date be sooner than twelve months from the date of the Commission order adopting this Settlement Agreement.

The Settling Parties also agree that any potential violations that were identified by an electric utility or a communications company prior to the effective date of the amendments to General Order 95 contained in this Settlement Agreement shall be repaired based on the requirements that were in effect on the date that the potential violations were first identified.

## II. OTHER MATTERS

A. The Settling Parties agree to seek expeditious approval of this Settlement Agreement and to use their reasonable best efforts to secure Commission approval of it without change, including by filing a joint motion seeking approval of this Settlement Agreement and any other written filings, appearances, and other means as may be necessary to secure Commission approval. The Settling Parties agree to actively and mutually defend this Settlement Agreement if its adoption is opposed by any other party and to coordinate efforts with respect to addressing any opposition to the joint motion for approval of the settlement. In accordance with Rule 12.6 of the Commission's Rules of Practice and Procedure, if this Settlement Agreement is not adopted by the Commission, its terms are inadmissible in any evidentiary hearing unless their admission is agreed to by the Settling Parties. In the event the Commission rejects or modifies the Settlement Agreement, Settling Parties reserve all rights set forth in Rule 12.4 of the Rules of Practice and Procedure. The provisions of this Section II.A. shall impose obligations on the Settling Parties immediately upon the execution of this Settlement Agreement.

B. The Settling Parties have bargained in good faith to reach the agreement set forth herein. The Settling Parties intend the Settlement Agreement to be interpreted as a unified, interrelated agreement and the provisions of this Settlement Agreement are not severable.

If the Commission, or any court of competent jurisdiction, overrules or materially modifies any material provision of this Settlement Agreement or fails to include the substance of Sections I.A-D in ordering paragraphs, findings of fact or conclusions of law in any decision adopting this Settlement Agreement, any Settling Party may withdraw from this Agreement. The Settling Parties agree, however, to negotiate in good faith with regard to any Commission-ordered or court-ordered changes in order to restore the balance of benefits and

burdens, and to exercise the right to withdraw only if such negotiations are unsuccessful.

The Settling Parties agree that no provision of this Settlement Agreement shall be construed against any Settling Party because a particular party or its counsel drafted the provision.

The representatives of the Settling Parties signing this Settlement Agreement are fully authorized to enter into this Settlement Agreement.

C. The rights conferred and obligations imposed on any of the Settling Parties by this Settlement Agreement shall inure to the benefit of or be binding on that Settling Party's successors in interest or assignees as if such successor or assignee was itself a party to this Settlement Agreement.

D. Should any dispute arise among the Settling Parties regarding the manner in which this Settlement Agreement or any term shall be implemented, the Settling Parties agree, prior to initiation of any other remedy, to work in good faith to resolve such differences in a manner consistent with both the express language and the intent of the Settling Parties in entering into this Settlement Agreement.

E. This Settlement Agreement may be executed in counterparts.

F. The Settling Parties hereby agree that this Settlement Agreement is entered into as a compromise of disputed issues in order to minimize the time, expense, and uncertainty of continued litigation in the Rulemaking.

### III. PARTIES

The following are the Settling Parties entering into this Settlement Agreement:

- Safety and Enforcement Division of the California Public Utilities Commission
- AT&T California & New Cingular Wireless PCS, LLC
- Bear Valley Electric Service, A Division of Golden State Water Company
- California Cable & Telecommunications Association
- Charter Fiberlink CA-CCO, LLC and Time Warner Cable Information Services (California), LLC
- Comcast Phone of California, LLC

- Consolidated Communications of California Company and the Small LECs
- The Small LECs include: Calaveras Telephone Company; Cal-Ore Telephone Co.; Ducor Telephone Company; Foresthill Telephone Co.; Happy Valley Telephone Company; Hornitos Telephone Company; Kerman Telephone Co.; Pinnacles Telephone Co.; The Ponderosa Telephone Co.; Sierra Telephone Company, Inc.; The Siskiyou Telephone Company; Volcano Telephone Company; and Winterhaven Telephone Company.
- Cox Communications California, LLC, and Cox California Telcom, LLC
- Crown Castle NG West, LLC and Sunesys, LLC
- CTIA ®
- Coalition of California Utility Employees
- Communications Workers of America, District 9
- Frontier California Inc., Citizens Telecommunications Company of California, Inc. and Frontier Communications of the Southwest Inc. (Frontier)
- Open Door Legal (formerly known as Bayview/Hunters Point Community Legal);
- Pacific Gas and Electric Company
- Sprint Communications
- T-Mobile West, LLC
- The Utility Reform Network
- Utility Consumers' Action Network
- Verizon Wireless

## **EXHIBIT 1**

### **Proposed Amended Rule 18 of General Order 95 in Redline Form**

## Proposed Amended Rule 18 of General Order 95

### 18 Reporting and Resolution of Safety Hazards Discovered by Utilities Maintenance Programs and Resolution of Potential Violations of General Order 95 and Safety Hazards

For purposes of this rule, "Safety Hazard" means a condition that poses a significant threat to human life or property.

"Southern California" is defined as the following: Imperial, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, and Ventura Counties.

"Extreme and Very High Fire Threat Zones" are defined on the Fire and Resource Assessment Program (FRAP) Map prepared by the California Department of Forestry and Fire Protection or the modified FRAP Map prepared by San Diego Gas & Electric Company (SDG&E) and adopted by Decision 12-02-032 in Phase 2 of Rulemaking 08-11-005. All entities subject to Rule 18 shall use the FRAP Map to implement Rule 18, except that SDG&E may use its modified FRAP Map to implement Rule 18.

#### A Resolution of Potential Violations of General Order 95 and Safety Hazards ~~and General Order 95 Nonconformances~~

- (1)(a) Each company (including electric utilities and CIPs communications companies) is responsible for taking appropriate corrective action to remedy potential violations of GO 95 and Safety Hazards ~~and GO 95 nonconformances~~ posed by its facilities.
  - (b) Upon completion of the corrective action, the company's records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least ten (10) years ~~and shall be made available to Commission staff upon 30 days notice.~~
- (2)(e) Where a communications company's or an electric utility's (Company A's) actions result in potential violations of GO 95 nonconformances for another entity (Company B), that entity's (Company B's) remedial action will be to transmit a single documented notice of identified nonconformances-potential

violations to the communications company or electric utility (Company A) for compliance within a reasonable amount of time not to exceed 180 days after the entity discovers the potential violations of GO 95. If the potential violation constitutes a Safety Hazard, such notice shall be transmitted within ten (10) business days after the entity discovers the Safety Hazard.

- (3) If a company, while performing inspections of its facilities, discovers a Safety Hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other entity of such Safety Hazard(s) no later than ten (10) business days after the discovery.
- (4) To the extent a company that has a notification requirement under (2) or (3) above cannot determine the facility owner/ operator, it shall contact the pole owner(s) within ten (10) business days if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days after discovery. The notified pole owner(s) shall be responsible for promptly (normally not to exceed five business days) notifying the company owning/ operating the facility if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days, after being notified of the potential violation of GO 95.
- (5) A company receiving a notification under (2), (3), or (4) above shall take appropriate corrective action consistent with the provisions of this rule. For at least ten (10) years, the documentation of the notice shall be maintained by both the notifying and receiving parties and documentation of the correction shall be maintained by the receiving party.

Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

## **B Maintenance Programs**

- (2)(a) ~~All companies~~ Each company (including electric utilities and communications companies) shall establish and implement an auditable maintenance program for ~~their-its~~ facilities and lines for the purpose of ensuring that they are in good condition so as to

conform to these rules. Each company must describe in its auditable maintenance program the required qualifications for the company representatives who perform inspections and/or who schedule corrective actions. Companies that are subject to GO 165 may maintain procedures for conducting inspections and maintenance activities in compliance with this rule and with GO 165.

~~All companies~~The auditable maintenance program must include, at a minimum, records that show the date of the inspection, type of equipment/facility inspected, findings, and a timeline for corrective actions to be taken following the identification of a potential violation of GO 95 or a Safety Hazard ~~or nonconformances with General Order 95~~ on the company's facilities.

- (1) ~~The auditable maintenance program~~ Companies shall ~~prioritize~~ undertake corrective actions ~~consistent with~~ within the time periods stated for each of the priority levels set forth below. Scheduling of corrective actions within the time periods below may be and based on additional factors, including the following factors, as appropriate:
- ~~• Safety and reliability as specified in the priority levels below;~~
  - Type of facility or equipment;
  - Location, including whether the Safety Hazard or nonconformance-potential violation is located in an Extreme or Very High Fire Threat Zone in Southern California;
  - Accessibility;
  - Climate;
  - Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public.

~~There shall be 3 priority levels.~~

~~(a)(i)~~ The maximum time periods for corrective actions associated with potential violation of GO 95 or a Safety Hazard are based on the following priority levels:

- (i) Level 1 -- An immediate risk of high potential impact to safety or reliability:



- ~~Immediate safety and/or reliability risk with high probability for significant impact.~~
  - Take corrective action immediately, either by fully repairing ~~the condition~~, or by temporarily repairing and reclassifying ~~the condition~~ to a lower priority.
- (ii) Level 2 -- Any other risk of at least moderate potential impact to safety or reliability:
- ~~Variable (non-immediate high to low) safety and/or reliability risk.~~
  - Take corrective action ~~to correct~~ within specified time period (either by fully repairing~~g~~, or by temporarily repairing and reclassifying ~~the condition~~ to a lower Level 3 priority). Time period for ~~correction~~ corrective action to be determined at the time of identification by a qualified company representative, but not to exceed: (1) 12 months for ~~nonconformances~~ potential violations that compromise worker safety, (2) 12 months for ~~nonconformances~~ potential violations that create a fire risk and are located in an Extreme or Very High Fire Threat Zone in Southern California, and (3) ~~59-36~~ months for all other Level 2 ~~nonconformances~~ potential violations.
- (iii) Level 3 -- Any risk of low potential impact to safety or reliability:
- ~~Acceptable safety and/or reliability risk.~~
  - Take corrective action (re-inspect, re-evaluate, or repair) as appropriate within 60 months subject to the exception specified below.
- EXCEPTION – Potential violations specified in Appendix J or subsequently approved through Commission processes, including, but not limited to, a Tier 2 Advice Letter under GO 96B, that can be completed at a future time as opportunity-based maintenance.
- Where an exception has been granted, repair of a potential violation must be completed the next time the company’s crew is at the structure to perform tasks at the

same or higher work level, i.e., the public, communications, or electric level. The condition's record in the auditable maintenance program must indicate the relevant exception and the date of the corrective action.

Note: Appendix I contains illustrative examples of potential violations of GO 95 and Safety Hazards, and their priority levels used to determine the maximum time period for corrective action.

- (b) Correction times may be extended under reasonable circumstances, such as:
- Third party refusal
  - Customer issue
  - No access
  - Permits required
  - System emergencies (e.g. fires, severe weather conditions)

(2) Commission staff may direct a company to correct violation(s) of GO 95 at specific location(s) sooner than the maximum time periods contained in this rule.

~~(3) Companies that have existing General Order 165 auditable inspection and maintenance programs that are consistent with the purpose of Rule 18A shall continue to follow their General Order 165 programs.~~

### **~~B. Notification of Safety Hazards~~**

~~If a company, while performing inspections of its facilities, discovers a safety hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other company and/or facility owner of such safety hazard(s) no later than 10 business days after the discovery. To the extent the inspecting company cannot determine the facility owner/operator, it shall contact the pole owner(s), who shall be responsible for promptly notifying the company owning/operating the facility with the safety hazard(s), normally not to exceed five business days after being notified of the safety hazard. The notification shall be documented and such documentation must be preserved by all parties for at least ten years.~~

~~Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.~~

~~Note: Added August 20, 2009 by Decision No. 09-08-029. Revised January 12, 2012 by Decision No. 1201032.~~

**EXHIBIT 2**

**Proposed Amended Rule 18 of General Order 95 Without Redline**

## **Proposed Amended Rule 18 of General Order 95**

### **18 Maintenance Programs and Resolution of Potential Violations of General Order 95 and Safety Hazards**

For purposes of this rule, "Safety Hazard" means a condition that poses a significant threat to human life or property.

"Southern California" is defined as the following: Imperial, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, and Ventura Counties.

"Extreme and Very High Fire Threat Zones" are defined on the Fire and Resource Assessment Program (FRAP) Map prepared by the California Department of Forestry and Fire Protection or the modified FRAP Map prepared by San Diego Gas & Electric Company (SDG&E) and adopted by Decision 12-02-032 in Phase 2 of Rulemaking 08-11-005. All entities subject to Rule 18 shall use the FRAP Map to implement Rule 18, except that SDG&E may use its modified FRAP Map to implement Rule 18.

#### **A Resolution of Potential Violations of General Order 95 and Safety Hazards**

- (1) Each company (including electric utilities and communications companies) is responsible for taking appropriate corrective action to remedy potential violations of GO 95 and Safety Hazards posed by its facilities.

Upon completion of the corrective action, the company's records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least ten (10) years.

- (2) Where a communications company's or an electric utility's (Company A's) actions result in potential violations of GO 95 for another entity (Company B), that entity's (Company B's) remedial action will be to transmit a single documented notice of identified potential violations to the communications company or electric utility (Company A) within a reasonable amount of time not to exceed 180 days after the entity discovers the potential violations of GO 95. If the potential violation constitutes a Safety Hazard, such notice shall be transmitted within ten (10) business days after the entity discovers the Safety Hazard.

- (3) If a company, while performing inspections of its facilities, discovers a Safety Hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other entity of such Safety Hazard(s) no later than ten (10) business days after the discovery.
- (4) To the extent a company that has a notification requirement under (2) or (3) above cannot determine the facility owner/operator, it shall contact the pole owner(s) within ten (10) business days if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days after discovery. The notified pole owner(s) shall be responsible for promptly (normally not to exceed five business days) notifying the company owning/operating the facility if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days, after being notified of the potential violation of GO 95.
- (5) A company receiving a notification under (2), (3), or (4) above shall take appropriate corrective action consistent with the provisions of this rule. For at least ten (10) years, the documentation of the notice shall be maintained by both the notifying and receiving parties and documentation of the correction shall be maintained by the receiving party.

Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

## **B Maintenance Programs**

Each company (including electric utilities and communications companies) shall establish and implement an auditable maintenance program for its facilities and lines for the purpose of ensuring that they are in good condition so as to conform to these rules. Each company must describe in its auditable maintenance program the required qualifications for the company representatives who perform inspections and/or who schedule corrective actions. Companies that are subject to GO 165 may maintain procedures for conducting inspections and maintenance activities in compliance with this rule and with GO 165.

The auditable maintenance program must include, at a minimum, records that show the date of the inspection, type of equipment/facility

inspected, findings, and a timeline for corrective actions to be taken following the identification of a potential violation of GO 95 or a Safety Hazard on the company's facilities.

(1) Companies shall undertake corrective actions within the time periods stated for each of the priority levels set forth below. Scheduling of corrective actions within the time periods below may be based on additional factors, including the following factors, as appropriate:

- Type of facility or equipment;
- Location, including whether the Safety Hazard or potential violation is located in an Extreme or Very High Fire Threat Zone in Southern California;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public.

(a) The maximum time periods for corrective actions associated with potential violation of GO 95 or a Safety Hazard are based on the following priority levels:

(i) Level 1 -- An immediate risk of high potential impact to safety or reliability:

- Take corrective action immediately, either by fully repairing or by temporarily repairing and reclassifying to a lower priority.

(ii) Level 2 -- Any other risk of at least moderate potential impact to safety or reliability:

- Take corrective action within specified time period (either by fully repairing, or by temporarily repairing and reclassifying to Level 3 priority). Time period for corrective action to be determined at the time of identification by a qualified company representative, but not to exceed: (1) 12 months for potential violations that compromise worker safety, (2) 12 months for potential violations that create a fire risk and are

located in an Extreme or Very High Fire Threat Zone in Southern California, and (3) 36 months for all other Level 2 potential violations.

- (iii) Level 3 -- Any risk of low potential impact to safety or reliability:
- Take corrective action within 60 months subject to the exception specified below.

EXCEPTION – Potential violations specified in Appendix J or subsequently approved through Commission processes, including, but not limited to, a Tier 2 Advice Letter under GO 96B, that can be completed at a future time as opportunity-based maintenance.

Where an exception has been granted, repair of a potential violation must be completed the next time the company's crew is at the structure to perform tasks at the same or higher work level, i.e., the public, communications, or electric level. The condition's record in the auditable maintenance program must indicate the relevant exception and the date of the corrective action.

Note: Appendix I contains illustrative examples of potential violations of GO 95 and Safety Hazards, and their priority levels used to determine the maximum time period for corrective action.

- (b) Correction times may be extended under reasonable circumstances, such as:
- Third party refusal
  - Customer issue
  - No access
  - Permits required
  - System emergencies (e.g. fires, severe weather conditions)
- (2) Commission staff may direct a company to correct violation(s) of GO 95 at specific location(s) sooner than the maximum time periods contained in this rule.



## **EXHIBIT 3**

### **Proposed Appendix I of General Order 95 Examples of Rule 18 Priority Levels and Safety Hazards**

**APPENDIX I - Examples of Rule 18 Priority Levels and Safety Hazards**

There are many situations where the location of the facility and other site-specific conditions may influence the evaluation of the work required. The priority and recommended repair date associated with any condition depend on a variety of factors, including the proximity to roadways or pedestrian traffic, accessibility of the location to the public, or the impact of failure or exposure. Furthermore, the same condition may give rise to different safety or reliability concerns, depending on whether the facility at issue is a communications facility or an electric facility. Consequently, conditions may be classified in more than one level as described in this Appendix.

Below is a non-exhaustive list of typical examples and is not inclusive of all line or equipment types or conditions that could result in a Level 1, Level 2, or Level 3 condition.

<b>Level 1</b>		
<b>Description:</b> An immediate risk of high potential impact to safety or reliability.		
<b>Repair Interval:</b> Take corrective action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying to a lower priority.		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	Inadequate clearances	Inadequate clearances
	Bare conductor contacting communication cable / drop	Cable / drop contacting bare power conductor
	Burned jumper or connector	Cable lashing broken
	Burned high voltage conductor	
Guys	Broken / damaged guy in proximity to high voltage conductor	
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Excessive lean	Excessive lean
Crossarm	Broken / damaged	Broken / damaged
	Burned / decayed	Burned / decayed

Equipment	Broken / damaged	Broken / damaged
	Equipment leaking oil	Equipment contacting or in proximity to high voltage conductor
Other / Vegetation	Vegetation contacting or nearly contacting high voltage conductor	
	Vegetation contacting low voltage conductor and compromising structure	Vegetation contacting cable conductor and compromising structure

<b>Level 2</b>		
<b>Description:</b> Any other risk of at least moderate potential impact to safety or reliability.		
<b>Repair Interval:</b> Take corrective action within specified time period (either by fully repairing, or by temporarily repairing and reclassifying to Level 3 priority). Time period for corrective action to be determined at the time of identification by a qualified company representative, but not to exceed: (1) 12 months for potential violations that compromise worker safety, (2) 12 months for potential violations that create a fire risk and are located in an Extreme or Very High Fire Threat Zone in Southern California, and (3) 36 months for all other Level 2 potential violations.		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	Insulated conductor contacting communication cable / drop	Cable / drop contacting insulated power conductor
	Burned jumper or connector	Cable lashing broken / missing / loose
	Burned high voltage conductor	
	Inadequate clearances	Inadequate clearances
	Unattached	Unattached
Guys	Broken / damaged	Broken / damaged
	Slack / missing	Slack / missing
	Anchor - decayed / loose	Anchor - decayed / loose
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Leaning	Leaning
	Climbing space obstructed	Climbing space obstructed
Crossarm	Broken / damaged	Broken / damaged / deteriorated
	Deteriorated	Broken / damaged guardarm
Equipment	Broken / damaged	Broken / damaged
	Equipment weeping / seeping	Equipment detached / loose
Other / Vegetation	Vegetation causing strain or abrasion on low voltage conductor	Vegetation causing strain or abrasion on cable
Ground Wire / Rod / Moulding	Exposed / broken / missing at public or communication level	Exposed / broken / missing / loose

<b>Level 3</b>		
<p><b>Description:</b> Any risk of low potential impact to safety or reliability. For Level 3, the condition is not structural, with low likelihood of failure; the condition does not have a significant impact to structural integrity; there is little potential for injury or reliability issues; failure or exposure does not present a significant impact to operations or customers; work procedures mitigate safety concerns.</p>		
<p><b>Repair Interval:</b> Take corrective action within 60 months, subject to Exception. See Rule 18, Section B(1)(a)(iii).</p>		
Line Element	Electric	Communications
Conductor		Cable tag missing
		Lashing broken / missing / loose
	Inadequate clearances	Inadequate clearances
	Unattached	Unattached
	Idle	Idle
Guys	Insulator compromised	Broken / damaged
	Slack	Slack
	Anchor - decayed / loose	Anchor - decayed / loose
	Missing marker	Missing marker
Insulator / Cutout	Minor damage	
Pole	Damaged	Damaged
	Leaning	Leaning
	Climbing space obstructed	Climbing space obstructed
Crossarm	Damaged	Damaged (including guard arm)
Hardware	Damaged / loose	Damaged / loose
Ground Wire / Rod / Moulding	Ground wire exposed above public and below communication level	Exposed / broken / missing / loose

Below is a non-exhaustive list of typical examples and is not inclusive of all line or equipment types or conditions that could qualify as a Safety Hazard.

<b>Safety Hazard</b>		
<b>Description:</b> A condition that poses a significant threat to human life or property.		
<b>Action:</b> If the facility belongs to the identifying company - take action immediately, either by fully or temporarily repairing the condition. Refer to Rule 18 for notification requirements.		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	Detached / unsupported	Detached / unsupported
	Bare conductors contacting or arcing to other conductors	Cable / drop contacting bare power conductor
	Bare conductors contacting or arcing to communication cables	Cable lashing broken and likely to contact high voltage conductor
	Conductors contacting or nearly contacting the ground or buildings	
Guys	Broken / damaged in proximity to high voltage conductor	
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Excessive lean	Excessive lean
Crossarm	Broken / damaged	Broken / damaged
Equipment	Broken / damaged / detached	Broken / damaged / detached
Other / Vegetation	Vegetation contacting or arcing to high voltage conductor	
	Vegetation contacting low voltage conductor and compromising structure or conductor	Vegetation contacting cable and compromising structure or cable

## **EXHIBIT 4**

### **Proposed Appendix J of General Order 95 Exceptions from the Maximum Time Period For Corrective Actions for Level 3 Conditions in Rule 18**

**Note:** Compared to the Settlement Agreement, the left column of the table in Appendix J has additional rows for better readability.

**APPENDIX J -- Exceptions from the Maximum Time Period  
for Corrective Actions for Level 3 Conditions in Rule 18**

<b>Exceptions</b>		
<p><b>Description:</b> Opportunity maintenance.</p> <p><b>Repair Interval:</b> Take action (reinspect, reevaluate, or repair) as appropriate. Exception conditions will be corrected the next time a crew is at the structure to perform tasks at the same or higher work level on the pole, i.e., the public, communications, or electric level.</p> <p><b>Additional Exceptions:</b> Additional exceptions may be added pursuant to Rule 18, Section B(1)(a)(iii). For the current list of exceptions, including those granted to specific entities, please see the Commission website.</p>		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	<p>Missing / illegible high voltage marking in a remote location (inaccessible by vehicle)</p> <p><i>Rationale: There is a low risk of the public coming into contact with a remote line such that the high voltage sign might provide a precaution for the public. The risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	<p>Communication carrier identification tag missing / illegible</p> <p><i>Rationale: There is negligible risk to safety or reliability associated with a missing communications carrier tag, and the risk of potential harm to the worker associated with correction outweighs that negligible risk. Therefore, it is reasonable to address the correction as opportunity maintenance. See NESC 214A5 (Corrections) (“(a) Lines and equipment with recorded conditions or defects that would reasonably be expected to endanger human life or property shall be promptly corrected, disconnected, or isolated. (b) Other conditions or defects shall be designated for correction.”).</i></p>



<p>Conductor</p>	<p>Reduced (minor) wire-to-wire clearances of insulated and energized service drops (0-750 volts) from the pole, at midspan, or at the customer service location</p> <p><i>Rationale: There is a negligible risk to safety or reliability associated with an insulated secondary/service conductor clearance (less than 20% reduction in clearance), and the risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	<p>Reduced (minor) wire-to-wire clearances of insulated and energized service drops (0-750 volts) from the pole, at midspan, or at the customer service location</p> <p><i>Rationale: There is a negligible risk to safety or reliability associated with an insulated secondary/service conductor clearance (less than 20% reduction in clearance), and the risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>
<p>Conductor</p>	<p>Missing / illegible high voltage sign on crossarms or poles above legible high voltage marking on lower crossarm(s)</p> <p><i>Rationale: (i) there is a negligible risk to the public and workers of not knowing that there is High Voltage on the structure because of the other signage on the structure, and (ii) the risk of potential harm associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	
<p>Conductor</p>		<p>Idle or abandoned cable and service drops with no public exposure</p> <p><i>Rationale: There is negligible risk to safety or reliability associated with an idle or abandoned service drop that cannot be accessed by the public, and the risk of potential harm associated with correction outweighs that negligible risk. Therefore, it is reasonable to address the correction as opportunity maintenance</i></p>

<p>Guy / Anchor</p>	<p>Damaged / missing guy marker in remote (inaccessible by vehicle) location  <i>Rationale: The absence of guy marker in a remote area does not pose risk to safety since the public is generally not exposed. Also the risk of potential harm to the worker associated with correction in the remote area (which may have to be hiked to over rough terrain) outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance. See NESC 217C (Protection and marking of guys) (“(1) The ground end of anchor guys exposed to pedestrian traffic shall be provided with a substantial and conspicuous marker. NOTE: There is no intent to require markers at all anchor locations. (2) Where an anchor is located in an established parking area, the guy shall either be protected from vehicle contact or marked. This rule does not require protection or marking of anchor guys located outside of the traveled ways of roadways or established parking areas. NOTE: Experience has shown that it is not practical to protect guys from contact by out of control vehicles operating outside of established traveled ways. See Rule 231B for clearances of structures adjacent to roadways.”).</i></p>	<p>Damaged / missing guy marker in remote (inaccessible by vehicle) location  <i>Rationale: Absence of guy marker in a remote area does not pose risk since the public is generally not exposed and the risk of potential harm associated with correction in the remote area (which may have to be hiked to over rough terrain) outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance. See NESC 217C.</i></p>
<p>Guy / Anchor</p>	<p>Damaged / missing guy marker not exposed to pedestrian or vehicle traffic  <i>Rationale: The absence of a guy marker in an area not exposed to pedestrian or vehicle traffic does not pose a risk to safety. The cost to install / repair a marker on a stand-alone basis (not in connection with a higher level repair) exceeds the benefit. Therefore, it is reasonable to address the correction as opportunity maintenance. See NESC 217C.</i></p>	<p>Damaged / missing guy marker not exposed to pedestrian or vehicle traffic  <i>Rationale: The absence of a guy marker in an area not exposed to pedestrian or vehicle traffic poses a negligible risk to safety. The cost to install / repair a marker on a stand-alone basis (not in connection with a higher level repair) exceeds the benefit. Therefore, it is reasonable to address the correction as opportunity maintenance. See NESC 217C.</i></p>

<p>Guy / Anchor</p>	<p>Reduced down guy clearance from communication line</p> <p><i>Rationale: In those cases where the guy is not touching the communication line (e.g., no evidence of strain or abrasion) the reduced clearance does not impact the pole's structural integrity. The risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	<p>Reduced down guy clearance from communication line</p> <p><i>Rationale: In those cases where the guy is not touching the communication line (e.g., no evidence of strain or abrasion) the reduced clearance does not impact the pole's structural integrity. The risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>
<p>Guy / Anchor</p>	<p>Anchor guy with minimal slack where a pole is straight or leaning towards the anchor</p> <p><i>Rationale: In those cases where the pole is leaning towards the anchor or is straight, the minimal slack (e.g., no more than 2 inches from taut) does not have a significant impact on the pole's structural integrity. The risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	<p>Anchor guy with minimal slack where a pole is straight or leaning towards the anchor</p> <p><i>Rationale: In those cases where the pole is leaning towards the anchor or is straight, the minimal slack (e.g., no more than 2 inches from taut) does not have a significant impact on the pole's structural integrity. The risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>
<p>Poles</p>	<p>Climbing space obstructions from vegetation with incidental intrusion into the supply space that: (i) does not prevent work from being done and (ii) does not violate Rule 35</p> <p><i>Rationale: As long as the vegetation can be addressed by the worker and does not prevent work from being done or pose a risk to the worker, then it is reasonable to address the correction as opportunity maintenance.</i></p>	<p>Climbing space obstructions from vegetation with incidental intrusion into the communication space that (i) does not prevent work from being done does and (ii) does not violate Rule 35</p> <p><i>Rationale: As long as the vegetation can be addressed by the worker and does not prevent work from being done or pose a risk to the worker, then it is reasonable to address the correction as opportunity maintenance.</i></p>

<p>Poles</p>	<p>Damaged / loose / idle hardware that:                  (i) is not in the climbing space and (ii) does not pose any risk to employees working on the pole or the public  <i>Rationale: In this circumstance, the damaged / loose / idle hardware does not pose a safety or reliability risk and the risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	<p>Damaged / loose / idle hardware that: (i) is not in the climbing space and (ii) does not pose any risk to employees working on the pole or the public  <i>Rationale: In this circumstance, the damaged / loose / idle hardware does not pose a safety or reliability risk, and the risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>
<p>Hardware</p>	<p>Missing or damaged bolt covers where only exposure is to qualified electric workers  <i>Rationale: Qualified electric workers have knowledge, training and work procedures to work safely regardless of whether bolt covers are present. As a result, the safety risk is negligible, and the risk of potential harm to the worker associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	
<p>Ground / Ground Rod / Ground Moulding</p>	<p>Exposed ground rod in inaccessible or remote location  <i>Rationale: There is a low risk of the public coming into contact with a ground rod in an inaccessible or remote location. In addition, the risk of potential harm associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>	<p>Exposed ground rod in inaccessible or remote location  <i>Rationale: There is a low risk of the public coming into contact with a ground rod in an inaccessible or remote location. In addition, the risk of potential harm associated with correction outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance.</i></p>

<p>Ground / Ground Rod / Ground Moulding</p>	<p>Damaged, missing or separated moulding (exposed ground) above communication level where only exposure is by qualified electric workers</p> <p><i>Rationale: Qualified electric workers have knowledge, training and work procedures to work safely regardless of whether moulding is present. The risk of potential harm associated with correction (plus sometimes there are access issues) outweighs the risk of harm from not correcting. Therefore, it is reasonable to address the correction as opportunity maintenance</i></p>	
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## ATTACHMENT B

### Proposed Amended Rule 80.1-A2 in Redline Form

#### 80.1 Inspection Requirements for Communication Lines:

##### A. Patrol and Detailed Inspections

[ \* \* \* \* ]

##### (2) Statewide Inspection Requirements

Each company shall prepare, follow, and modify as necessary, procedures for conducting patrol or detailed inspections for all of its Communication Lines throughout the State. Consistent with Rule 31.2, the type, frequency and thoroughness of inspections shall be based upon the following factors:

- Fire threat
- Proximity to overhead power line facilities
- Terrain
- Accessibility
- Location

Each company that discovers a safety hazard on or near a communications facility or electric facility involving another company while performing inspections of its own facilities pursuant to this rule shall notify the other company and/or facility owner of such safety hazard in accordance with Rule ~~18(B)~~18-A3.

# ATTACHMENT C

## Proposed Amended Rule 80.1-A2 without Redline

### **80.1 Inspection Requirements for Communication Lines:**

#### **A. Patrol and Detailed Inspections**

[\* \* \* \*]

#### **(2) Statewide Inspection Requirements**

Each company shall prepare, follow, and modify as necessary, procedures for conducting patrol or detailed inspections for all of its Communication Lines throughout the State. Consistent with Rule 31.2, the type, frequency and thoroughness of inspections shall be based upon the following factors:

- Fire threat
- Proximity to overhead power line facilities
- Terrain
- Accessibility
- Location

Each company that discovers a safety hazard on or near a communications facility or electric facility involving another company while performing inspections of its own facilities pursuant to this rule shall notify the other company and/or facility owner of such safety hazard in accordance with Rule 18-A3.

**(END OF APPENDIX A)**

**Appendix B: Amended Rule 18 (Redline)**

**Note:** Appendix B is Rule 18 of General Order 95 (GO 95), as modified by Decision 17-12-024 (corrected by D.18-02-001), with the amendments adopted by today's Decision shown in redline form. Added text is shown with red font and underline. Deleted text is shown with red font and strikethrough.

**Note:** Appendix B does not include the amended Rule 80.1-A(2) of GO 95 adopted by today's Decision or the new Appendices I and J of GO 95 adopted by today's Decision.



**General Order 95, Rule 18**  
**Amended Rule in Redline Form**

**18 ~~Reporting and Resolution of Safety Hazards Discovered by Utilities Maintenance Programs and Resolution of Potential Violations of General Order 95 and Safety Hazards~~**

For purposes of this rule, "Safety Hazard" means a condition that poses a significant threat to human life or property.

**A Resolution of Potential Violations of General Order 95 and Safety Hazards ~~and General Order 95 Nonconformances~~**

- (1)~~(a)~~ Each company (including electric utilities and CIPs communications companies) is responsible for taking appropriate corrective action to remedy potential violations of GO 95 and Safety Hazards ~~and GO 95 nonconformances~~ posed by its facilities.
  - ~~(b)~~ Upon completion of the corrective action, the company's records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least ten (10) years ~~and shall be made available to Commission staff upon 30 days notice.~~
- (2)~~(c)~~ Where a communications company's or an electric utility's (Company A's) actions result in potential violations of GO 95 nonconformances for another entity (Company B), that entity's (Company B's) remedial action will be to transmit a single documented notice of identified ~~nonconformances~~ potential violations to the communications company or electric utility (Company A) ~~for compliance within a reasonable amount of time not to exceed 180 days after the entity discovers the potential violations of GO 95. If the potential violation constitutes a Safety Hazard, such notice shall be transmitted within ten (10) business days after the entity discovers the Safety Hazard.~~
- (3) If a company, while performing inspections of its facilities, discovers a Safety Hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other entity of such Safety Hazard(s) no later than ten (10) business days after the discovery.
- (4) To the extent a company that has a notification requirement under

(2) or (3) above cannot determine the facility owner/operator, it shall contact the pole owner(s) within ten (10) business days if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days after discovery. The notified pole owner(s) shall be responsible for promptly (normally not to exceed five business days) notifying the company owning/operating the facility if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days, after being notified of the potential violation of GO 95.

- (5) A company receiving a notification under (2), (3), or (4) above shall take appropriate corrective action consistent with the provisions of this rule. For at least ten (10) years, the documentation of the notice shall be maintained by both the notifying and receiving parties and documentation of the correction shall be maintained by the receiving party.

Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

## **B Maintenance Programs**

- (2)(a) ~~All companies~~ Each company (including electric utilities and communications companies) shall establish and implement an auditable maintenance program for ~~their~~ its facilities and lines for the purpose of ensuring that they are in good condition so as to conform to these rules. Each company must describe in its auditable maintenance program the required qualifications for the company representatives who perform inspections and/or who schedule corrective actions. Companies that are subject to GO 165 may maintain procedures for conducting inspections and maintenance activities in compliance with this rule and with GO 165.

~~All companies~~ The auditable maintenance program must include, at a minimum, records that show the date of the inspection, type of equipment/facility inspected, findings, and a timeline for corrective actions to be taken following the identification of a potential violation of GO 95 or a Safety Hazard ~~or nonconformances with General Order 95~~ on the company's

facilities.

- (1) ~~The auditable maintenance program Companies~~ shall ~~prioritize~~ ~~undertake~~ corrective actions ~~consistent with within the time periods stated for each of~~ the priority levels set forth below. ~~Scheduling of corrective actions within the time periods below may be and~~ based on ~~additional factors, including~~ the following factors, as appropriate:

- ~~• Safety and reliability as specified in the priority levels below;~~
- Type of facility or equipment;
- Location, including whether the Safety Hazard or ~~nonconformance-potential violation~~ is located in the High Fire-Threat District;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public.

~~There shall be 3 priority levels.~~

~~(a)(i) The maximum time periods for corrective actions associated with potential violation of GO 95 or a Safety Hazard are based on the following priority levels:~~

- (i) Level 1 ~~-- An immediate risk of high potential impact to safety or reliability:~~
- ~~• Immediate safety and/or reliability risk with high probability for significant impact.~~
  - Take corrective action immediately, either by fully repairing ~~the condition~~, or by temporarily repairing and reclassifying ~~the condition~~ to a lower priority.
- (ii) Level 2 ~~-- Any other risk of at least moderate potential impact to safety or reliability:~~
- ~~• Variable (non-immediate high to low) safety and/or reliability risk.~~

- Take corrective action ~~to correct~~ within specified time period (either by fully repairing, or by temporarily repairing and reclassifying ~~the condition~~ to a lower Level 3 priority). Time period for ~~correction~~ corrective action to be determined at the time of identification by a qualified company representative, but not to exceed: (1) six months for ~~nonconformances~~ potential violations that create a fire risk located in Tier 3 of the High Fire-Threat District; (2) 12 months for ~~nonconformances~~ potential violations that create a fire risk located in Tier 2 of the High Fire-Threat District; (3) 12 months for ~~nonconformances~~ potential violations that compromise worker safety; and (4) ~~59-36~~ months for all other Level 2 ~~nonconformances~~ potential violations.
- (iii) Level 3 -- Any risk of low potential impact to safety or reliability:

- ~~Acceptable safety and/or reliability risk.~~
- Take corrective action ~~(re-inspect, re-evaluate, or repair)~~ as appropriate within 60 months subject to the exception specified below.

EXCEPTION - Potential violations specified in Appendix J or subsequently approved through Commission processes, including, but not limited to, a Tier 2 Advice Letter under GO 96B, that can be completed at a future time as opportunity-based maintenance.

Where an exception has been granted, repair of a potential violation must be completed the next time the company's crew is at the structure to perform tasks at the same or higher work level, i.e., the public, communications, or electric level. The condition's record in the auditable maintenance program must indicate the relevant exception and the date of the corrective action.

Note: Appendix I contains illustrative examples of potential violations of GO 95 and Safety Hazards, and their priority levels used to determine the maximum time period for corrective action.

(b) Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

~~(2) Commission staff may direct a company to correct violation(s) of GO 95 at specific location(s) sooner than the maximum time periods contained in this rule.~~

~~(3) Companies that have existing General Order 165 auditable inspection and maintenance programs that are consistent with the purpose of Rule 18A shall continue to follow their General Order 165 programs.~~

#### **~~B. Notification of Safety Hazards~~**

~~If a company, while performing inspections of its facilities, discovers a safety hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other company and/or facility owner of such safety hazard(s) no later than 10 business days after the discovery. To the extent the inspecting company cannot determine the facility owner/operator, it shall contact the pole owner(s), who shall be responsible for promptly notifying the company owning/operating the facility with the safety hazard(s), normally not to exceed five business days after being notified of the safety hazard. The notification shall be documented and such documentation must be preserved by all parties for at least ten years.~~

~~Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.~~

~~Note: Added August 20, 2009 by Decision No. 09-08-029. Revised January 12, 2012 by Decision No. 1201032.~~

**(END OF APPENDIX B)**

**Appendix C: Amended Rule 18 (Final)**

**Note:** Appendix C is Rule 18 of General Order 95 (GO 95), as modified by Decision 17-12-024 (corrected by D.18-02-001), with the amendments adopted by today's Decision shown in final form (i.e., without redline).

**Note:** Appendix C does not include the amended Rule 80.1-A(2) of GO 95 adopted by today's Decision or the new Appendices I and J of GO 95 adopted by today's Decision.

**General Order 95, Rule 18**  
**Amended Rule in Final Form**

**18 Maintenance Programs and Resolution of Potential Violations of General Order 95 and Safety Hazards**

For purposes of this rule, "Safety Hazard" means a condition that poses a significant threat to human life or property.

**A Resolution of Potential Violations of General Order 95 and Safety Hazards**

- (1) Each company (including electric utilities and communications companies) is responsible for taking appropriate corrective action to remedy potential violations of GO 95 and Safety Hazards posed by its facilities.

Upon completion of the corrective action, the company's records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least ten (10) years.

- (2) Where a communications company's or an electric utility's (Company A's) actions result in potential violations of GO 95 for another entity (Company B), that entity's (Company B's) remedial action will be to transmit a single documented notice of identified potential violations to the communications company or electric utility (Company A) within a reasonable amount of time not to exceed 180 days after the entity discovers the potential violations of GO 95. If the potential violation constitutes a Safety Hazard, such notice shall be transmitted within ten (10) business days after the entity discovers the Safety Hazard.
- (3) If a company, while performing inspections of its facilities, discovers a Safety Hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other entity of such Safety Hazard(s) no later than ten (10) business days after the discovery.
- (4) To the extent a company that has a notification requirement under (2) or (3) above cannot determine the facility



owner/operator, it shall contact the pole owner(s) within ten (10) business days if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days after discovery. The notified pole owner(s) shall be responsible for promptly (normally not to exceed five business days) notifying the company owning/operating the facility if the subject of the notification is a Safety Hazard, or otherwise within a reasonable amount of time not to exceed 180 days, after being notified of the potential violation of GO 95.

- (5) A company receiving a notification under (2), (3), or (4) above shall take appropriate corrective action consistent with the provisions of this rule. For at least ten (10) years, the documentation of the notice shall be maintained by both the notifying and receiving parties and documentation of the correction shall be maintained by the receiving party.

Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

## **B Maintenance Programs**

Each company (including electric utilities and communications companies) shall establish and implement an auditable maintenance program for its facilities and lines for the purpose of ensuring that they are in good condition so as to conform to these rules. Each company must describe in its auditable maintenance program the required qualifications for the company representatives who perform inspections and/or who schedule corrective actions. Companies that are subject to GO 165 may maintain procedures for conducting inspections and maintenance activities in compliance with this rule and with GO 165.

The auditable maintenance program must include, at a minimum, records that show the date of the inspection, type of equipment/facility inspected, findings, and a timeline for corrective actions to be taken following the identification of a potential violation of GO 95 or a Safety Hazard on the company's facilities.

- (1) Companies shall undertake corrective actions within the time periods stated for each of the priority levels set forth below.

Scheduling of corrective actions within the time periods below may be based on additional factors, including the following factors, as appropriate:

- Type of facility or equipment;
- Location, including whether the Safety Hazard or potential violation is located in the High Fire-Threat District;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public.

(a) The maximum time periods for corrective actions associated with potential violation of GO 95 or a Safety Hazard are based on the following priority levels:

(i) Level 1 -- An immediate risk of high potential impact to safety or reliability:

- Take corrective action immediately, either by fully repairing or by temporarily repairing and reclassifying to a lower priority.

(ii) Level 2 -- Any other risk of at least moderate potential impact to safety or reliability:

- Take corrective action within specified time period (either by fully repair or by temporarily repairing and reclassifying to Level 3 priority). Time period for corrective action to be determined at the time of identification by a qualified company representative, but not to exceed: (1) six months for potential violations that create a fire risk located in Tier 3 of the High Fire-Threat District; (2) 12 months for potential violations that create a fire risk located in Tier 2 of the High Fire-Threat District; (3) 12 months for potential violations that compromise worker safety; and (4) 36 months for all other Level 2 potential violations.

(iii) Level 3 -- Any risk of low potential impact to safety or

reliability:

- Take corrective action within 60 months subject to the exception specified below.

EXCEPTION - Potential violations specified in Appendix J or subsequently approved through Commission processes, including, but not limited to, a Tier 2 Advice Letter under GO 96B, that can be completed at a future time as opportunity-based maintenance.

Where an exception has been granted, repair of a potential violation must be completed the next time the company's crew is at the structure to perform tasks at the same or higher work level, i.e., the public, communications, or electric level. The condition's record in the auditable maintenance program must indicate the relevant exception and the date of the corrective action.

Note: Appendix I contains illustrative examples of potential violations of GO 95 and Safety Hazards, and their priority levels used to determine the maximum time period for corrective action.

(b) Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

(2) Commission staff may direct a company to correct violation(s) of GO 95 at specific location(s) sooner than the maximum time periods contained in this rule.

**(END OF APPENDIX C)**

**Appendix D: Modified Appendix I of GO 95 (Redline)**

Note: Appendix D is the text of the Settlement Agreement's new Appendix I of General Order 95 (GO 95) that is adopted by today's Decision, with said text modified to incorporate the amendments to Rule 18 of GO 95 that were adopted by Decision 17-12-024. The modified text of Appendix I of GO 95 is shown in redline form. Added text is shown with red font and underline. Deleted text is shown with red font and strikethrough.

**APPENDIX I - Examples of Rule 18 Priority Levels and Safety Hazards**

There are many situations where the location of the facility and other site-specific conditions may influence the evaluation of the work required. The priority and recommended repair date associated with any condition depend on a variety of factors, including the proximity to roadways or pedestrian traffic, accessibility of the location to the public, or the impact of failure or exposure. Furthermore, the same condition may give rise to different safety or reliability concerns, depending on whether the facility at issue is a communications facility or an electric facility. Consequently, conditions may be classified in more than one level as described in this Appendix.

Below is a non-exhaustive list of typical examples and is not inclusive of all line or equipment types or conditions that could result in a Level 1, Level 2, or Level 3 condition.

<b>Level 1</b>		
<b>Description:</b> An immediate risk of high potential impact to safety or reliability.		
<b>Repair Interval:</b> Take corrective action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying to a lower priority.		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	Inadequate clearances	Inadequate clearances
	Bare conductor contacting communication cable / drop	Cable / drop contacting bare power conductor
	Burned jumper or connector	Cable lashing broken
	Burned high voltage conductor	
Guys	Broken / damaged guy in proximity to high voltage conductor	
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Excessive lean	Excessive lean
Crossarm	Broken / damaged	Broken / damaged
	Burned / decayed	Burned / decayed

Equipment	Broken / damaged	Broken / damaged
	Equipment leaking oil	Equipment contacting or in proximity to high voltage conductor
Other / Vegetation	Vegetation contacting or nearly contacting high voltage conductor	
	Vegetation contacting low voltage conductor and compromising structure	Vegetation contacting cable conductor and compromising structure

<b>Level 2</b>		
<b>Description:</b> Any other risk of at least moderate potential impact to safety or reliability.		
<b>Repair Interval:</b> Take corrective action within specified time period (either by fully repairing, or by temporarily repairing and reclassifying to Level 3 priority). Time period for corrective action to be determined at the time of identification by a qualified company representative, but not to exceed: (1) <u>six months for potential violations that create a fire risk located in Tier 3 of the High Fire-Threat District</u> , (2) 12 months for potential violations that compromise worker safety, <del>(2)</del> (3) 12 months for potential violations that create a fire risk <del>and are</del> located in <u>Tier 2 of the High Fire-Threat District an Extreme or Very High Fire Threat Zone in Southern California</u> , and <del>(3)</del> (4) 36 months for all other Level 2 potential violations.		
Line Element	Electric	Communications
Conductor	Insulated conductor contacting communication cable / drop	Cable / drop contacting insulated power conductor
	Burned jumper or connector	Cable lashing broken / missing / loose
	Burned high voltage conductor	
	Inadequate clearances	Inadequate clearances
	Unattached	Unattached
Guys	Broken / damaged	Broken / damaged
	Slack / missing	Slack / missing
	Anchor - decayed / loose	Anchor - decayed / loose
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Leaning	Leaning
	Climbing space obstructed	Climbing space obstructed
Crossarm	Broken / damaged	Broken / damaged / deteriorated
	Deteriorated	Broken / damaged guardarm
Equipment	Broken / damaged	Broken / damaged
	Equipment weeping / seeping	Equipment detached / loose
Other / Vegetation	Vegetation causing strain or abrasion on low voltage conductor	Vegetation causing strain or abrasion on cable
Ground Wire / Rod / Moulding	Exposed / broken / missing at public or communication level	Exposed / broken / missing / loose





<b>Level 3</b>		
<p><b>Description:</b> Any risk of low potential impact to safety or reliability. For Level 3, the condition is not structural, with low likelihood of failure; the condition does not have a significant impact to structural integrity; there is little potential for injury or reliability issues; failure or exposure does not present a significant impact to operations or customers; work procedures mitigate safety concerns.</p>		
<p><b>Repair Interval:</b> Take corrective action within 60 months, subject to Exception. See Rule 18, Section B(1)(a)(iii).</p>		
Line Element	Electric	Communications
Conductor		Cable tag missing
		Lashing broken / missing / loose
	Inadequate clearances	Inadequate clearances
	Unattached	Unattached
	Idle	Idle
Guys	Insulator compromised	Broken / damaged
	Slack	Slack
	Anchor - decayed / loose	Anchor - decayed / loose
	Missing marker	Missing marker
Insulator / Cutout	Minor damage	
Pole	Damaged	Damaged
	Leaning	Leaning
	Climbing space obstructed	Climbing space obstructed
Crossarm	Damaged	Damaged (including guard arm)
Hardware	Damaged / loose	Damaged / loose
Ground Wire / Rod / Moulding	Ground wire exposed above public and below communication level	Exposed / broken / missing / loose

Below is a non-exhaustive list of typical examples and is not inclusive of all line or equipment types or conditions that could qualify as a Safety Hazard.

<b>Safety Hazard</b>		
<b>Description:</b> A condition that poses a significant threat to human life or property.		
<b>Action:</b> If the facility belongs to the identifying company - take action immediately, either by fully or temporarily repairing the condition. Refer to Rule 18 for notification requirements.		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	Detached / unsupported	Detached / unsupported
	Bare conductors contacting or arcing to other conductors	Cable / drop contacting bare power conductor
	Bare conductors contacting or arcing to communication cables	Cable lashing broken and likely to contact high voltage conductor
	Conductors contacting or nearly contacting the ground or buildings	
Guys	Broken / damaged in proximity to high voltage conductor	
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Excessive lean	Excessive lean
Crossarm	Broken / damaged	Broken / damaged
Equipment	Broken / damaged / detached	Broken / damaged / detached
Other / Vegetation	Vegetation contacting or arcing to high voltage conductor	
	Vegetation contacting low voltage conductor and compromising structure or conductor	Vegetation contacting cable and compromising structure or cable

**(END OF APPENDIX D)**

**Appendix E: Modified Appendix I of GO 95 (Final)**

**Note:** Appendix E is the text of the Settlement Agreement's new Appendix I of General Order 95 (GO 95) that is adopted by today's Decision, with said text modified to incorporate the amendments to Rule 18 of GO 95 that were adopted by Decision 17-12-024. The modified text of Appendix I of GO 95 is shown in final form (i.e., without redline).

**APPENDIX I - Examples of Rule 18 Priority Levels and Safety Hazards**

There are many situations where the location of the facility and other site-specific conditions may influence the evaluation of the work required. The priority and recommended repair date associated with any condition depend on a variety of factors, including the proximity to roadways or pedestrian traffic, accessibility of the location to the public, or the impact of failure or exposure. Furthermore, the same condition may give rise to different safety or reliability concerns, depending on whether the facility at issue is a communications facility or an electric facility. Consequently, conditions may be classified in more than one level as described in this Appendix.

Below is a non-exhaustive list of typical examples and is not inclusive of all line or equipment types or conditions that could result in a Level 1, Level 2, or Level 3 condition.

<b>Level 1</b>		
<b>Description:</b> An immediate risk of high potential impact to safety or reliability.		
<b>Repair Interval:</b> Take corrective action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying to a lower priority.		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	Inadequate clearances	Inadequate clearances
	Bare conductor contacting communication cable / drop	Cable / drop contacting bare power conductor
	Burned jumper or connector	Cable lashing broken
	Burned high voltage conductor	
Guys	Broken / damaged guy in proximity to high voltage conductor	
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Excessive lean	Excessive lean
Crossarm	Broken / damaged	Broken / damaged
	Burned / decayed	Burned / decayed

Equipment	Broken / damaged	Broken / damaged
	Equipment leaking oil	Equipment contacting or in proximity to high voltage conductor
Other / Vegetation	Vegetation contacting or nearly contacting high voltage conductor	
	Vegetation contacting low voltage conductor and compromising structure	Vegetation contacting cable conductor and compromising structure

<b>Level 2</b>		
<b>Description:</b> Any other risk of at least moderate potential impact to safety or reliability.		
<b>Repair Interval:</b> Take corrective action within specified time period (either by fully repairing, or by temporarily repairing and reclassifying to Level 3 priority). Time period for corrective action to be determined at the time of identification by a qualified company representative, but not to exceed: (1) six months for potential violations that create a fire risk located in Tier 3 of the High Fire-Threat District, (2) 12 months for potential violations that compromise worker safety, (3) 12 months for potential violations that create a fire risk located in Tier 2 of the High Fire-Threat District, and (4) 36 months for all other Level 2 potential violations.		
Line Element	Electric	Communications
Conductor	Insulated conductor contacting communication cable / drop	Cable / drop contacting insulated power conductor
	Burned jumper or connector	Cable lashing broken / missing / loose
	Burned high voltage conductor	
	Inadequate clearances	Inadequate clearances
	Unattached	Unattached
Guys	Broken / damaged	Broken / damaged
	Slack / missing	Slack / missing
	Anchor - decayed / loose	Anchor - decayed / loose
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Leaning	Leaning
	Climbing space obstructed	Climbing space obstructed
Crossarm	Broken / damaged	Broken / damaged / deteriorated
	Deteriorated	Broken / damaged guardarm
Equipment	Broken / damaged	Broken / damaged
	Equipment weeping / seeping	Equipment detached / loose
Other / Vegetation	Vegetation causing strain or abrasion on low voltage conductor	Vegetation causing strain or abrasion on cable
Ground Wire / Rod / Moulding	Exposed / broken / missing at public or communication level	Exposed / broken / missing / loose

<b>Level 3</b>		
<p><b>Description:</b> Any risk of low potential impact to safety or reliability. For Level 3, the condition is not structural, with low likelihood of failure; the condition does not have a significant impact to structural integrity; there is little potential for injury or reliability issues; failure or exposure does not present a significant impact to operations or customers; work procedures mitigate safety concerns.</p>		
<p><b>Repair Interval:</b> Take corrective action within 60 months, subject to Exception. See Rule 18, Section B(1)(a)(iii).</p>		
Line Element	Electric	Communications
Conductor		Cable tag missing
		Lashing broken / missing / loose
	Inadequate clearances	Inadequate clearances
	Unattached	Unattached
	Idle	Idle
Guys	Insulator compromised	Broken / damaged
	Slack	Slack
	Anchor - decayed / loose	Anchor - decayed / loose
	Missing marker	Missing marker
Insulator / Cutout	Minor damage	
Pole	Damaged	Damaged
	Leaning	Leaning
	Climbing space obstructed	Climbing space obstructed
Crossarm	Damaged	Damaged (including guard arm)
Hardware	Damaged / loose	Damaged / loose
Ground Wire / Rod / Moulding	Ground wire exposed above public and below communication level	Exposed / broken / missing / loose

Below is a non-exhaustive list of typical examples and is not inclusive of all line or equipment types or conditions that could qualify as a Safety Hazard.

<b>Safety Hazard</b>		
<b>Description:</b> A condition that poses a significant threat to human life or property.		
<b>Action:</b> If the facility belongs to the identifying company - take action immediately, either by fully or temporarily repairing the condition. Refer to Rule 18 for notification requirements.		
<b>Line Element</b>	<b>Electric</b>	<b>Communications</b>
Conductor	Detached / unsupported	Detached / unsupported
	Bare conductors contacting or arcing to other conductors	Cable / drop contacting bare power conductor
	Bare conductors contacting or arcing to communication cables	Cable lashing broken and likely to contact high voltage conductor
	Conductors contacting or nearly contacting the ground or buildings	
Guys	Broken / damaged in proximity to high voltage conductor	
Insulator / Cutout	Broken / damaged / missing	
Pole	Broken / damaged	Broken / damaged
	Excessive lean	Excessive lean
Crossarm	Broken / damaged	Broken / damaged
Equipment	Broken / damaged / detached	Broken / damaged / detached
Other / Vegetation	Vegetation contacting or arcing to high voltage conductor	
	Vegetation contacting low voltage conductor and compromising structure or conductor	Vegetation contacting cable and compromising structure or cable

**(END OF APPENDIX E)**