BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Update Rules for the Safety, Reliability, and Resiliency of Electrical Distribution Systems	Rulemaking 24-05-023

COMMENTS OF COLUMBIA LAW SCHOOL'S SABIN CENTER FOR CLIMATE CHANGE LAW AND THE INSTITUTE FOR POLICY INTEGRITY AT NEW YORK UNIVERSITY SCHOOL OF LAW

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I. Introduction

Columbia Law School's Sabin Center for Climate Change Law (Sabin Center) and the Institute for Policy Integrity at New York University School of Law (Policy Integrity)[1] submit these comments in response to the Order Instituting Rulemaking to Update Rules for the Safety, Reliability, and Resiliency of Electrical Distribution Systems (Order Instituting Rulemaking).

The Sabin Center develops legal techniques to combat the climate crisis and advance climate justice, and trains law students and lawyers in their use. The Sabin Center has worked extensively on issues relating to climate resilience in the electric utility sector, including publishing a major report on *Climate Risk in the Electricity Sector: Legal Obligations to Advance Climate Resilience Planning*.[2] Policy Integrity is a non-partisan think tank dedicated to improving the quality of governmental decision-making through advocacy and scholarship in the fields of administrative law, economics, and public policy. Policy Integrity's work in the energy sector includes reports on electric system resilience[3] as well as reliability and resource adequacy

[1] The document does not purport to represent the views, if any, of Columbia University or New York University School of Law.
[2] Romany M. Webb, Michael Panfil & Sarah Ladin, *Climate Risk in the Electricity Sector: Legal Obligations to Advance Climate Resilience Planning by Electric Utilities*, SABIN CENTER FOR CLIMATE CHANGE LAW, COLUMBIA LAW SCHOOL (2020), https://scholarship.law.columbia.edu/sabin_climate_change/44/.
[3] *See* Burcin Unel and Avi Zevin, *Toward Resilience*, INST. FOR POLICY INTEGRITY (2018), https://policyintegrity.org/files/publications/Toward_Resilience.pdf.

during the energy transition.[4] The Sabin Center and Policy Integrity, along with Environmental Defense Fund and Vanderbilt Law School, partner on the Initiative on Climate Risk and Resilience Law (ICRRL), which drives legal innovation, scholarship, and action to address the consequences of climate change.[5] ICRRL hosts the Climate Resilience Toolkit, a joint project of the Sabin Center and Environmental Defense Fund, which provides information on ways to improve climate resilience planning by electric utilities.[6]

The Sabin Center and Policy Integrity appreciate the Commission's effort to consider updating its oversight of the safety, reliability, and resilience of electrical distribution systems in light of certain emerging threats, risks, and priorities, including climate change. In these comments, we recommend that the Commission (1) clarify the scope of the climate risks and impacts that are relevant to this effort and (2) observe that many of these same emerging threats, risks, and priorities may require updating of the Commission's oversight of the safety, reliability, and resilience of utility systems other than the electrical distribution system, and ensure that this effort is coordinated with any corresponding efforts with respect to other utility systems.

II. Relevant Climate Risks and Impacts Include Chronic Environmental Changes.

The Order Instituting Rulemaking enumerates five "newly emerging threats and risks, as well as emerging priorities" that "necessitate[] a reexamination of current practices," which include, inter alia, "extreme, climate-driven weather events" and "evolving wildfire mitigation practices."[7] These specific examples of climate impacts give the impression that the relevant climate-related threats and risks necessarily take the form of *events*. However, climate change is also altering baseline weather patterns and environmental conditions, and those changes in baseline conditions contribute to the need to re-examine current practices.

Examples of non-event based climate change impacts include increasing average air and water temperatures, changing precipitation patterns, and sea-level rise.[8] Each of these will impact the operation of distribution assets, as well as other aspects of the grid and other interconnected utility systems, in ways that

[4] *See* Jennifer Danis & Dena Adler, INST. FOR POLICY INTEGRITY, *Reducing Pollution Without Sacrificing Reliability* (2024), https://policyintegrity.org/files/publications/EPA_FERC_Report_v2.pdf; (hereinafter, Danis & Adler 2024).
[5] This document does not necessarily represent the views of each ICRRL partner organization. For more information about ICRRL, see https://icrrl.org.
[6] Electric Resilience Toolkit, INITIATIVE ON CLIMATE RISK AND RESILIENCE LAW, https://www.icrrl.org/electric-resilience-toolkit/.
[7] Order Instituting Rulemaking at 1. The other three enumerated threats, risks, and priorities are not themselves manifestations of climate change.
[8] See Craig D. Zamuda et al., *Energy Supply, Delivery, and Demand*, in *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* 174, 176, 191 (D.R. Reidmiller et al. eds., 2018), https://perma.cc/ZP2G-JJRK.

could impair the reliability, safety, and resiliency of the electric system. Non-event based climate impacts have particular implications for daily operation of the grid, as well as longer-term forecasting, planning, and investment.

More specifically, rising average temperatures will drive higher demand for electricity,[9] and increasing electrification will exacerbate this effect. At the same time, rising temperatures also reduce the operating efficiency of certain assets and accelerate asset aging, which the Commission has already identified as an emerging issue.[10] Relatedly, rising temperatures can also make equipment maintenance challenging, since maintenance is most readily performed during mild weather, and rising average temperatures shorten available maintenance windows and may prevent maintenance entirely, for example during periods of heat-induced Restricted Maintenance Operations.

Higher average temperatures are also contributing to sea level rise, which can put coastal infrastructure at risk of nuisance flooding (i.e., flooding that occurs during high tides), storm surge, and permanent inundation.[11] These chronic conditions associated with sea level rise can damage or destroy assets, leading to outages and other reliability challenges, and create major safety hazards.

In other proceedings, the CPUC has recognized the threats posed by these chronic climate impacts (in addition to extreme weather related risks).[12] The Commission should clarify that this proceeding, too, will consider the impact of chronic climate change impacts, as well as extreme events, that affect the safety, reliability, and resilience of the electric distribution system.

III. Existing Safety, Reliability, and Resilience Practices for Other Utility Services Also Need Attention.

Whereas Rulemaking 18-04-019 considers "climate change adaptation" for both electric utilities and natural gas utilities, this proceeding focuses specifically on the need to update existing policies, rules, and procedures regarding the safety, reliability, and resiliency of *electrical* distribution systems, due to a set of emergent threats and priorities that exist against the "complex backdrop of a changing climate." While some

[9] *See* J. McFarland et al., *Impacts of rising air temperatures and emissions mitigation on electricity demand and supply in the United States: a multi-model comparison,* 131 CLIMATIC CHANGE 111 (2015).
[10] U.S. DEP'T OF ENERGY, CLIMATE CHANGE & THE ELECTRICITY SECTOR: GUIDE FOR CLIMATE CHANGE RESILIENCE PLANNING 10 (2016), https://perma.cc/29MD-XWEE.
[11] *See* U.S. DEP'T OF ENERGY, CLIMATE CHANGE & THE ELECTRICITY SECTOR: GUIDE FOR ASSESSING VULNERABILITIES AND DEVELOPING RESILIENCE SOLUTIONS TO SEA LEVEL RISE 8, 14, 89-90 (2016), https://perma.cc/AAA7-P448.
[12] *See, e.g.,* Cal. Pub. Utils. Comm'n, Decision on Energy Utility Climate Change Vulnerability Assessments and Climate Adaptation in Disadvantaged Communities (Phase 1, Topics 4 and 5), Rulemaking 18-04-019 (Aug. 27, 2020), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M346/K285/346285534.PDF.

of the identified threats and priorities have particular relevance to the electric grid (e.g., the role of certain electric infrastructure in increasing wildfire risk), most of them will also create challenges for the safety, reliability, and resiliency of the natural gas distribution system. Moreover, utility systems do not exist in silos; rather, interdependencies abound, such that risks to the electric system can affect the natural gas system and vice versa. Indeed, gas-electric reliability issues have emerged as a major area of concern for federal and regional entities.[13]

To ensure that the utility distribution systems on which customers rely work in the face of emerging threats, it is critical to explore the linkages between the various state utility systems and evaluate how emergent risks to one system may exacerbate challenges. Whether in this proceeding or elsewhere, the Commission needs to address the suitability of today's oversight practices to ensuring the safety, reliability, and resilience of natural gas distribution systems. The interactions and interdependencies between the natural gas system and the electric system also need to inform the Commission's consideration of its electric system oversight. To the extent the Commission may be addressing similar issues in one or more pending proceedings specific to the natural gas system, the need for the Commission to address interactions and interdependencies between these two systems will require coordination between this proceeding and any such proceedings specific to natural gas. The scope of this proceeding should also expressly include coordination.

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[13] *See* Danis & Adler 2024 at 21.

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