

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 14-00175 WHA

v.

PACIFIC GAS AND ELECTRIC
COMPANY,

Defendant.

**ORDER TO SHOW CAUSE RE
CONDITIONS OF PROBATION**

This order to show cause proposes further conditions of probation to require the convicted utility, in deciding which power lines to de-energize during windstorms, to take into account the extent to which power lines have or have not been cleared of hazardous trees and limbs as required by California law and the Offender’s own Wildfire Mitigation Plan (WMP). This proposal is made to protect the people of California from yet further death and destruction caused by the Offender’s continuing failure to operate its power grid safely.

* * *

In September 2010, a high-pressure gas transmission pipeline owned and operated by defendant Pacific Gas and Electric Company exploded in a residential area of San Bruno. The inferno killed eight, injured 58, and damaged 108 homes, 38 of which were destroyed. The National Transportation Safety Board (NTSB) immediately investigated and found that PG&E’s

1 Integrity Management Program was deficient, ineffective, and a probable cause of the San
2 Bruno explosion. The investigation further revealed that PG&E lacked complete and accurate
3 records for its gas transmission pipelines despite receiving notice of recordkeeping deficiencies
4 through employees, regulatory agencies, and third-party auditors and consultants (PSR ¶¶ 13–
5 19).

6 In August 2016, a federal jury convicted PG&E on five felony counts of knowingly and
7 willfully violating Natural Gas Pipeline Safety Act safety standards and one felony count of
8 obstructing the NTSB’s investigation arising out of the San Bruno explosion. The felony
9 judgment that followed imposed the largest fine allowed by law and the longest probation
10 allowed by law. One of several conditions of probation prohibited the Offender from
11 committing another federal, state, or local crime. It was also required to notify the probation
12 office immediately upon learning of any major civil litigation, criminal prosecution, or
13 administrative proceeding against PG&E, or any investigation or formal inquiry by
14 governmental authorities regarding the organization. The felony judgment also provided for an
15 independent monitor to oversee safety aspects of PG&E’s operations (Dkt. No.s 884, 922).

16 Then came a stunning chapter in California history. Since the commencement of the
17 Offender’s probation alone, PG&E has ignited 20 or more wildfires in California, killing at least
18 111 individuals, destroying at least 22,627 structures, and burning half a million acres. Here
19 follows a summary.

20 In October 2017, the Wine Country Fires — including the Atlas and Nuns fires — ravaged
21 more than two hundred thousand acres in Northern California. According to CAL FIRE, PG&E
22 ignited seventeen of the twenty-one major Wine Country wildfires. The culprit this time was
23 PG&E’s electricity grid. These seventeen fires alone killed 22 people and destroyed 3,256
24 structures. Following the Wine Country fires, the Monitor, federal prosecutors, PG&E, and the
25 Court agreed that the Monitor would evaluate PG&E’s electricity-distribution operations,
26 including its vegetation-management plan, and equipment-maintenance and inspection
27 programs. CAL FIRE found that PG&E’s violations of Section 4293 of the California Public
28 Resources Code specifically had caused at least three of the Wine Country fires.

1 All these fires occurred during the wildfire season and during windstorms. During a
2 windstorm, if a tree or a heavy limb blows onto energized lines, the lines are pushed together,
3 and because they are uninsulated, a bolt of electricity flashes between the conductors. The
4 molten metal blazes to the ground where it lands in the dry grass, igniting a wildfire. There is
5 nothing wrong with the lines being uninsulated, for they almost always have been. Precisely
6 because they are uninsulated, in 1929, the California Public Utilities Commission (CPUC)
7 General Order (GO) 95, set forth rules for utilities to ensure that overhead power lines remain
8 free of tree and limb hazards. Similarly, since 1965, the California Public Resources Code has
9 separately required utilities like PG&E to police their rights of way and remove trees and limbs
10 within a specified clearance. During the wildfire season, Section 4293 requires utilities to
11 maintain a clearance of specified distances “in all directions between all vegetation and all
12 conductors which are carrying electric current” and to trim or remove hazardous trees or limbs
13 that may contact the line from the side or fall on the line.

14 PG&E, however, failed to comply with these safety directives and began to divert funds
15 from right-of-way maintenance. It used those funds for, among other things, bigger bonuses,
16 dividends, and political contributions. Inspections of lines and removal of hazardous limbs and
17 trees got postponed. The backlog of uncompleted work grew and grew. In 2017, we paid the
18 price in the Wine Country Fires. Windstorms blew trees and limbs onto live PG&E wires and
19 sparked the conflagrations.

20 Shortly after the 2017 fires, PG&E, though flush with cash, fled into bankruptcy to
21 minimize its liability for those wildfires. It also went to the legislature for a relief plan. In 2018,
22 the California Legislature passed SB 901, which required California’s electrical utilities to create
23 WMPs, which they must submit annually to the CPUC. WMPs detail utilities’ safety measures
24 and wildfire prevention efforts. Pursuant to SB 901, PG&E’s WMP would include protocols
25 and programs for de-energization, vegetation management, and facility inspection and
26 maintenance. The same bill added factors, including climate conditions, which the CPUC could
27 use to determine whether and what portion of a utility’s wildfire-related expenses could be
28 passed along to ratepayers. Soon followed AB 1054, which created an insurance fund for

1 utilities, and which required that electrical utilities submit the annual WMPs to the newly-
 2 formed Wildfire Safety Advisory Board for comment. In addition to the annual submission, it
 3 required utilities to comprehensively change their WMPs every three years.

4 In November 2018, the Camp Fire in Butte County, the deadliest wildfire in California
 5 history, destroyed the town of Paradise, killed 85, and burned 18,793 structures. Again, P&E
 6 caused the fire. One cause was the collapse of an ancient, worn-out C-hook hanging from a
 7 PG&E transmission tower, and another was a tree blowing onto a PG&E distribution line, all as
 8 strong winds swept the region. In all cases, the high winds, known as Diablo Winds, had been
 9 expected, annual events in our autumns.

10 On January 9, 2019, United States Probation Officer Jennifer Hutchings filed a Form 12
 11 charging that PG&E violated the conditions of its probation by failing to notify her of a \$1.5
 12 million settlement entered into with the Butte County District Attorney's Office, whereby Butte
 13 County had agreed to forgo criminal prosecution in connection with three even earlier wildfires
 14 that CAL FIRE determined had been caused by trees blowing onto PG&E distribution lines.
 15 That same day, another order herein directed the parties to show cause why PG&E's conditions
 16 of probation should not be modified to, among other things, require PG&E to re-inspect its
 17 electrical grid, remove or trim all trees or branches that might contact PG&E's equipment during
 18 high-wind events, and to de-energize any part of its electrical grid not yet rated as safe by PG&E
 19 for the wind conditions then prevailing. Hearings followed (Dkt. No.s 960–61).

20 This led to further probation conditions in April 2019 (Dkt. No. 1040):

- 21 1. PG&E must fully comply with all applicable laws concerning vegetation management
 22 and clearance requirements, including Sections 4292 and 4293 of the California Public
 23 Resources Code, CPUC General Order 95, and FERC FAC-003-4.
- 24 2. PG&E must fully comply with the specific targets and metrics set forth in its wildfire
 25 mitigation plan, including with respect to enhanced vegetation management.
 26 Compliance with these targets and metrics, however, will not excuse any failure to
 27 fully comply with the vegetation laws as required in paragraph 1.
- 28 3. The Monitor shall assess PG&E's wildfire mitigation and wildfire safety work,
 including through regular, unannounced inspections of PG&E's vegetation
 management efforts and equipment inspection, enhancement, and repair efforts. The
 inspections will include both inspections of segments of power lines where PG&E has

1 conducted its enhanced vegetation management efforts pursuant to its wildfire
2 mitigation plan, as well as areas where enhanced vegetation management has yet to
3 occur. The inspections will further include field interviews and questioning of PG&E
4 employees and contractors.

- 5
- 6 4. PG&E shall maintain traceable, verifiable, accurate, and complete records of its
7 vegetation management efforts. PG&E shall report to the Monitor on the first business
8 day of every month on its vegetation management status and progress, and make
9 available for inspection all related records at the Monitor's request.
 - 10 5. PG&E shall ensure that sufficient resources, financial and personnel, including
11 contractors and employees, are allocated to achieve the foregoing. If PG&E cannot find
12 enough contractors, then PG&E must hire and train its own crews to trim and remove
13 trees. To ensure that sufficient financial resources are available for this purpose,
14 PG&E may not issue any dividends until it is in compliance with all applicable
15 vegetation management requirements as set forth above.

16 At the sentencing hearing on May 7, 2019, PG&E board members and officers were
17 ordered to visit San Bruno, the site of the gas explosion, and Butte County, the site of the deadly
18 Camp Fire, to bring home the devastation that PG&E had wrought. PG&E was also required to
19 create a committee within the Board of Directors to scrutinize PG&E's fidelity to the WMP and
20 its conditions of probation. These conditions became the following (Dkt. No.s 1061, 1027,
21 1071):

- 22 6. By no later than July 15, 2019, the PG&E Board of Directors, PG&E's Chief Executive
23 Officer and certain other PG&E senior executive leaders, the Monitor, and Probation
24 shall visit Paradise and San Bruno to gain a firsthand understanding of the harm
25 inflicted on those communities and meet with victims and other stakeholders, such as
26 fire-fighting personnel and/or city officials.
- 27 7. A committee of the PG&E Board of Directors shall assume responsibility for tracking
28 progress against PG&E's Wildfire Safety Improvement Plan, as approved by the
California Public Utilities Commission, and the new terms of probation imposed on
April 3 regarding wildfire safety. The committee is to report in writing to the Board at
least quarterly, and also present orally to the Board at least quarterly, PG&E's progress
in meeting the terms of the approved Wildfire Safety Improvement Plan and the April 3
terms of probation and, to the extent there are shortfalls, how PG&E will address the
shortfalls.

In June 2019, the Court, the Monitor, PG&E's board of directors, its officers, and
Probation Officer Hutchings all went to Paradise, Ground Zero of the Camp Fire. They learned
from first responders and survivors of the Camp Fire about the devastation that wrecked the

1 county and killed so many, all because of PG&E's safety failures. The same group visited the
2 San Bruno pipeline explosion site in July to see and hear the full story of that crime.

3 In Butte County, PG&E would eventually admit responsibility for 84 deaths in the Camp
4 Fire and would plead guilty in June 2020. *See* THE NEW YORK TIMES, "PG&E Pleads
5 Guilty to 84 Counts of Manslaughter in Camp Fire" (June 16, 2020). It also would agree to pay
6 \$13.5 billion to the victim's compensation fund, a \$4.5 million dollar fine, and \$500,000 to
7 cover the costs of the prosecution.

8 This Court urged, but ultimately did not require, PG&E to temporarily de-energize any
9 power line unsafe to operate during dry-season windstorms. PG&E protested the idea at the
10 time and resisted any proposed order to engage in such temporary de-energizations. During the
11 2019 fire season, however, PG&E voluntarily implemented eight power shutoffs, which came to
12 be known as Public Safety Power Shutoffs (PSPSs). No major wildfire, in fact, came from a
13 PG&E distribution line failure in 2019. This represented an important safety development.
14 Most significantly, during the entire wildfire season in 2019, no lives were lost from wildfires
15 started by PG&E. This stood in stark contrast to preceding years. Troublesome and aggravating
16 as those power shutoffs certainly were, that paled in comparison to the death and destruction
17 caused in the preceding years. Photos of downed trees draped over de-energized distribution
18 lines in the wake of the windstorms demonstrate what might have occurred had the power been
19 left on and the massive extent to which PG&E has failed to maintain the required clearances.
20 During 2019, PG&E conducted eight PSPSs. PG&E found that 334 trees or limbs fell on
21 distribution lines during just four PSPSs in October. Of these fallen trees, PG&E estimated that
22 234 would have caused arcing (in which electricity would have flown to the closest conducting
23 surface, such as the dry, grass-covered earth). Here are four photographs from the October 26 or
24 29 PSPSs illustrating the point (Dkt. No.s 1110, 1119, 1132):
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A blown-over tree and broken conductors in Sonoma County.



A tree blown onto conductors in Alameda County.

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A tree blown onto conductors in unincorporated Napa County.



A tree blown onto conductors in unincorporated Lake County.

1 Public Safety Power Shutoff Oct. 26–Nov. 1, 2019 Report to the CPUC, Appx. C, Figs. 1, 5, 6,
2 7.

3 Although no distribution line ignited a wildfire in 2019, a PG&E transmission line did fail
4 and cause a major wildfire, the Kincade Fire in Sonoma County. A transmission tower at the
5 intersection of Kincade and Burned Mountain Roads saw a jumper cable break loose during a
6 windstorm, contact the metal tower, and short out, tossing electrical sparks onto the dry wind-
7 blown grass. It burned through over 77 thousand acres and destroyed 374 structures, but,
8 mercifully, killed no one. CAL FIRE blamed PG&E. *See* SAN JOSE MERCURY NEWS,
9 “PG&E Power Lines Caused Kincade Fire in Sonoma County” (July 16, 2020).

10 To patrol and clear its right of ways, PG&E has in this century outsourced all
11 responsibility, both as to inspections to identify hazardous trees and limbs and as to cutting
12 them. Since the Wine Country Fires, PG&E has ramped up its outsourcing. As of April 2020, it
13 had under contract over 1,000 “pre-inspectors” to flag trees that violated clearance requirements
14 and roughly 5,000 tree-trimmers to follow behind to remove them. This clearing work,
15 however, has been sloppy and missed dangerous conditions entirely. The Court asked the
16 Monitor to perform unannounced spot checks on outsourced work and the Monitor reported
17 numerous shortfalls (and continues to do so). When called to account, PG&E routinely shrugs
18 and says it didn’t know of the substandard work done by the outsourcees.

19 The problem was that PG&E needed at least some inspectors on its own management team
20 to oversee the quality (or not) of the outsourced work. Put differently, PG&E needed its own
21 inspectors to do what the Monitor had been doing. This led the Court to impose, in April 2020,
22 additional terms of probation regarding inspections and to require PG&E to hire and train its
23 own inspectors so as to better manage quality control over its contractors. They were as follows
24 (Dkt. No. 1243):

- 25 8. Vegetation Condition: PG&E shall, by September 1, 2020, staff an in-house vegetation
26 management inspection manager to oversee a number of workforce resources who will
27 provide in-field oversight of all stages of the vegetation management process, including
28 the enhanced vegetation management program work, to be deployed throughout
PG&E’s territory, including High Fire-Threat Districts (HFTDs). By the end of
September 2020, PG&E will extend offers to 10 in-house field supervisors and/or

1 inspectors, an additional 10 inspectors by the end of November, and the remaining
2 approximately 10 inspectors by the end of January 2021. The inspectors shall conduct
3 in-field oversight of PG&E contractors while the work is being performed, verifying
4 and correcting any deviation from applicable scopes of work pursuant to PG&E
5 policies and legal requirements. The inspectors shall also oversee pre-inspectors to
6 help ensure they are clearly marking and designating trees for trimming and removal,
7 and that tree-trimming contractors are appropriately performing their duties.
8 Deviations from applicable scopes of work shall also be accurately recorded and
9 reported to PG&E and the Monitor team to be used for, among other things, ongoing
10 training of PG&E's contract workforce.

11 9. Asset Age Condition: For certain critical transmission tower components in High Fire-
12 Threat Districts, the failure of which may result in an ignition, PG&E shall conduct a
13 reasonable search and, where available, record the age and date of installation of those
14 components. For all other such critical transmission components and where asset-age
15 records are not reasonably available, PG&E shall make conservative assumptions of
16 such ages and dates of installation. PG&E shall also implement a program to
17 determine the expected useful life of critical components factoring in field conditions
18 and incorporate that information into its risk-based asset management programs.
19 PG&E shall begin this effort (or supplement any existing or planned initiatives)
20 immediately and provide monthly progress reports to the Monitor team.

21 10. Transmission Inspection Program Condition: PG&E shall, by the end of 2020,
22 supplement its transmission-asset inspections program to include the following
23 measures: (1) hire a crew of in-house and/or contract inspectors, independent from
24 inspectors conducting transmission inspections, to oversee in the field transmission
25 inspections while they are being conducted; (2) going forward, and subject to CAISO
26 clearances and/or other external dependencies, revise the material loss threshold for the
27 replacement of cold-end hardware (including C-hooks and hanger plates) in HFTDs to
28 create a 90-day replacement requirement for such hardware with an observed material
loss approaching 50%; and (3) make the prior two years of inspection reports available
to transmission post-inspection review teams starting in 2021, and one year of
inspection reports available in 2020.

These conditions were worked out by the Monitor and eventually stipulated to by the
Offender.

Unlike 2019, when no PG&E distribution lines caused any major wildfires, thanks to the
PSPSs, 2020 saw a return to distribution-line disaster. On September 27, 2020, during a
windstorm, a fire ignited in the area of Zogg Mine Road and Jenny Bird Lane in Shasta County
(Zogg Fire). The Zogg Fire killed four: Alaina Michelle Rowe and her eight-year-old daughter
died when flames overtook their pickup truck, Karin King also died trying to escape in her
vehicle, and Kevin Vossen succumbed to burns. It also destroyed 204 structures.

1 As of this moment, CAL FIRE has not blamed the Zogg Fire on PG&E, but there are clear
2 signs that PG&E bears responsibility. On October 9, PG&E disclosed that CAL FIRE had taken
3 possession of PG&E equipment as part of an ongoing investigation into the origins of the Zogg
4 Fire. CAL FIRE also seized portions of a gray pine in connection with its investigation. The
5 gray pine had been looming over a section of distribution line (the area of interest) along
6 PG&E's Girvan Circuit. On October 12, an order herein requested that PG&E explain its role in
7 the ignition of the Zogg Fire, including whether inspections of the Girvan Circuit had previously
8 identified trees for trimming or removal and the status of that work.



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22 **The gray pine looming over the Girvan Circuit prior to the Zogg Fire**
23 **(Dkt. No. 1250-4).**

24 According to PG&E's response, when the Zogg Fire erupted during the windstorm, a
25 PG&E SmartMeter and a line recloser serving the area of interest reported drops in voltage and
26 other activity from approximately 2:40 p.m. to 3:06 p.m., when a line recloser deenergized that
27 portion of the Girvan Circuit. NOAA's geostationary weather satellite detected a fire in the area
28 at 2:46 p.m. PG&E reports that CAL FIRE confiscated, among other things, several shattered

1 and at least one burned piece of distribution-line infrastructure from the area of interest (Dkt.
2 No. 1250 at 4–5, 7).

3 Although other distribution lines in Shasta County were de-energized during the
4 windstorm, PG&E had left the Girvan Line fully energized.

5 PG&E admits that it had failed to perform work on trees that had been designated for
6 removal or trimming in the area of interest. Specifically, in August 2018, a subcontractor
7 identified “for removal two Gray Pine trees that have a location consistent with the location of
8 the Gray Pine from which CAL FIRE appears to have collected sections after the Zogg Fire.”
9 PG&E acknowledges that these gray pines, along with others identified, “may not have been
10 worked despite being identified for work by the” California Forestry and Vegetation
11 Management Quality Control “inspector.” PG&E also admits that the area of interest had not
12 received a separate Catastrophic Event Memorandum Account (CEMA) patrol in 2019, as was
13 required. PG&E’s CEMA patrols involve visual inspections for dead and dying trees in the
14 highest-risk portions of its distribution lines. They supplement PG&E’s standard vegetation
15 management inspections. In April 2019, a PG&E database contractor (yet another outsource)
16 logged into the inspection scheduling system and changed the scheduled start date for the
17 CEMA patrol, which had been scheduled to occur in November 2019. The individual reset the
18 inspection for *February* 2019, a date that had already passed. Consequently, the CEMA patrol
19 of the area of interest ultimately did not take place (Dkt. No. 1265 at 24, 31, 32).

20 Shasta and Tehama Counties have recently sued PG&E in state court, and the Shasta
21 County District Attorney’s office is investigating criminal charges against the utility. *See* SAN
22 FRANCISCO CHRONICLE, “Shasta, Tehama Counties Sue PG&E, Alleging Negligence Led
23 to Zogg Fire” (Dec. 10, 2020); *see also* REDDING RECORD SEARCHLIGHT, “More than 150
24 in Shasta County Join to Sue PG&E over Zogg Fire” (Dec. 16, 2020). Additionally, PG&E
25 reported to the Securities and Exchange Commission in mid-December 2020 that it expects to be
26 liable for \$275 million or more in damages to victims of the fire (Dkt. No. 1270-1).

27 Since some of the distribution lines in Shasta County were shut off during that windstorm
28 but the Girvan Line was somehow left on, the Court asked PG&E to explain its PSPS decision-

1 making process. The responses led to more follow-up questions. *The Court was surprised to*
2 *learn PG&E did not and does not consider the extent to which distribution lines have been*
3 *cleared of hazardous trees and limbs in designating lines for a PSPS (Dkt. No.s 1265, 1271).*

4 The Zogg Fire illustrates this point. Shortly before September 27, as the northern counties
5 braced for the windstorm, PG&E initiated a PSPS analysis and ultimately de-energized several
6 circuits in that region, beginning on the 27th, in anticipation of high winds and dangerous
7 conditions. PG&E proceeded in two steps. Initially, variables including weather, fuel humidity,
8 terrain, and forecasted wind speeds (among others) fed an algorithm, which rated regions by risk
9 of catastrophic wildfire. In other words, the algorithm was supposed to predict the areas facing
10 an unacceptable risk of catastrophic wildfire and nominate those areas (and those areas alone)
11 for de-energizing. Significantly, however, its inputs did not (and still do not) consider
12 compliance (or not) with clearance mandates. As a result, the algorithm ignored the main
13 problem and ignored the entire extent to which any line had or had not been cleared.

14 Next, PG&E's meteorology team and other decision makers examined each of those
15 nominated regions and decided whether to de-energize the overhead electrical wires that traverse
16 them. As part of this second-stage analysis, once a line was designated for a PSPS, PG&E went
17 out to try to find and remove hazardous trees in order to possibly "adequately reduce the risk of
18 catastrophic wildfire" and subtract the line from the PSPS. (Of course, very little time remained
19 to do this.) But, to repeat, in nominating the lines for a PSPS in the first place, PG&E ignored
20 (and still ignores) the extent of risk from hazardous trees and limbs. This meant (and still
21 means) that a distribution line beset by hazardous trees and limbs would not be nominated
22 unless, by luck, the other criteria happened to indicate sufficient risk (Dkt. No.s 1265, 1271,
23 1250-5 at 16).

24 It is most confounding that PG&E, in deciding which distribution lines to de-energize in a
25 PSPS, ignored (and still ignores) the number-one cause of wildfires ignited by PG&E:
26 hazardous trees and limbs that should have, by law, been removed but which still loom as threats
27 in windstorms. There can be no debate about the dangers of dead, dying, and untrimmed trees
28 near live distribution lines. By PG&E's own admission,

1 [v]egetation-caused ignitions are one of the largest drivers of utility-
2 caused wildfires, and the largest driver in HFTD areas. We estimate
3 that 70 percent of the time, if identified vegetation is not worked, it
4 can cause a power-line failure under high fire threat weather
5 conditions.

6 *Pacific Gas and Electric Company Quarterly Report on 2020 Wildfire Mitigation Plan for May*
7 *to July 2020* (Sept. 9, 2020), at 11.

8 So, here we are again, concerned with the most serious life and death question arising out
9 of PG&E’s continuing safety violations of California law in its failure to remove dangerous trees
10 and limbs from its distribution lines. This problem is often referred to as "vegetation
11 management.” But that term vastly understates and marginalizes its true severity. It’s not a
12 matter of landscaping or gardening. It’s a matter of life and death.

13 PG&E’s recent responses, and a December 2020 letter from the Monitor, illuminate gaps
14 in PG&E’s compliance with California law, recordkeeping, and compliance with various terms
15 of its probation. (The Monitor letter is appended hereto as Exhibit 1.)

16 *First*, PG&E continues to be in violation of Section 4293 because it has failed to remove
17 all trees and limbs within the required clearances. PG&E admits this (Dec. Monitor Ltr. at 8,
18 10).

19 *Second*, in 2020, PG&E continued to allow trees to threaten distribution lines in violation
20 of California law. PG&E found 157 “Level 1” trees (posing imminent threats to distribution
21 lines), between January and April 2020. PG&E violated GO 95 by failing to ameliorate these
22 hazardous trees within 24 hours. Then there are the trees that PG&’s work failed to address. On
23 lines certified “compliant,” PG&E’s internal reviews found 432 trees that failed. The Monitor’s
24 independent, and smaller-scope review found an additional 153 dangerous tree conditions (*id.* at
25 8, 10, Exh. G).

26 Within California’s HFTDs, as well, the Monitor found that PG&E’s work regularly
27 “missed trees.” HFTDs denote areas of the power grid that carry a heightened risk of severe
28 wildfires. The HFTDs include three separate risk tiers, in order from least to most dangerous:
Tier 1 refers to the “high hazard” areas on the U.S. Forest Service-CAL FIRE tree-mortality

1 map, Tier 2 refers to areas with an “elevated risk” of utility-caused wildfires, and Tier 3 refers to
2 areas with an “extreme risk” of utility-caused wildfires. In its WMP, PG&E has adopted more
3 stringent internal standards for trimming and removing trees within the HFTDs. These
4 standards are referred to as Enhanced Vegetation Management (EVM) “scope.” The Monitor
5 found more exceptions to the EVM scope per mile than it had between September and
6 December of 2019. Alarming, these exceptions included more trees overhanging distribution
7 lines and trees that posed a strike risk, per mile, than the Monitor found from September to
8 December 2019. The Monitor did report that, in 2020, PG&E completed over 1,800 miles of
9 EVM inspections and tree work in HFTDs and that “non-conformance with the EVM scope is
10 more the exception than the norm.” Yet PG&E’s work continued to overlook potentially deadly
11 trees (*id.* at 2–3, 5–6).

12 *Third*, there “continue to be gaps in PG&E’s recordkeeping” of inspections and vegetation
13 work, in violation of PG&E’s WMP and fourth condition of probation. While acknowledging
14 improvements since 2019, the Monitor still found troubling errors. For example, within
15 PG&E’s records, “approximately 8,200 trees” displayed risk “scores indicating” they should be
16 removed, but were nonetheless “marked in the internal system as *not* requiring tree work.” The
17 Monitor also reports, “PG&E’s maps for EVM work are still not accurate and complete.” Some
18 maps omitted entire segments of circuits. In one case, the Monitor even found a radial clearance
19 violation on the real-life segment of the circuit that was missing from the map; but for the
20 Monitor’s inspection, this radial clearance violation would remain today (*id.* at 11–13 (emphasis
21 added)).

22 *Fourth*, PG&E has reported to the CPUC that it will fall short of fulfilling its WMP in
23 2020. PG&E’s WMP incorporated multiple goals, of which PG&E anticipates it will fail to
24 meet three. One deals with post-PSPS power restoration to customers, but two involve
25 improvements to its SmartMeters to better detect service transformer failures and voltage drops
26 that indicate downed distribution wires. Both of the latter aim to help prevent wildfires, but
27 PG&E is not projected to meet those WMP commitments (*id.* at 6–7).

1 *Fifth*, the Monitor emphasized that in 2019 and 2020, PG&E failed to use risk models as
2 “the predominant input . . . in PG&E’s [EVM] work planning and execution for 2019 and 2020.”
3 This choice by PG&E defies belief. The Monitor called on PG&E “to give greater weight to
4 working the riskiest areas first” with respect to hazardous trees (a goal, it acknowledges, that
5 PG&E seems poised to improve upon in 2021) (*id.* at 2).

6 This order recognizes that PSPS events, necessary because PG&E has failed to clear
7 hazardous trees and limbs, cause huge disruptions for the public. Businesses suffer and
8 residents who use medical devices go without electricity. Still, in October of last year, PG&E’s
9 then-CEO and President Bill Johnson stated that PSPS events could continue for up to 10 years,
10 since it will take that long for the Offender to bring its lines into compliance and thus eliminate the
11 need for PSPS events during windstorms. *See* KQED, “The PG&E Public Safety Power Shutoffs
12 Could Continue for 10 Years, Says CEO” (Oct. 18, 2019). The PSPS is the lesser evil and will
13 remain essential until PG&E finally comes into full compliance with respect to removing
14 hazardous trees and limbs and honoring the required clearances.

15 PG&E is therefore ordered to show cause why the below proposed conditions of probation
16 should not be added as conditions reasonably necessary to protect the public from further death
17 and destruction and to help rehabilitate the Offender (18 U.S.C. §§ 3553(a)(1), (a)(2)):

18 11. In determining which distribution lines in Tier 2 or Tier 3 to de-energize during a
19 PSPS, PG&E must take into account all information in its possession and in the
20 possession of its contractors and subcontractors concerning the extent to which trees
21 and/or limbs bordering those lines remain in violation of Public Resources Code
22 Section 4293, GO 95, FERC FAC-003-4, and/or its own wildfire mitigation plan.

22 12. To the extent that such information shows that such trees and limbs present a safety
23 hazard in the event of a windstorm, PG&E must make a specific determination with
24 respect to that distribution line and it must de-energize it unless PG&E finds in writing
25 that there are specific reasons to believe that no safety issue exists.

26 PG&E may continue with its two-step process so long as it also follows the new conditions
27 herein.

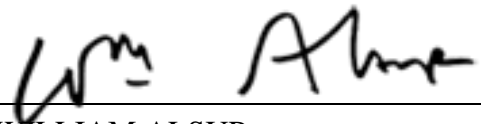
28 A few weeks ago, a prior question to PG&E raised the general proposal in this order and
PG&E replied. This order now poses a specific version of that question. Rather than treat the

1 earlier answer as PG&E's response, this order gives the Offender a fresh opportunity to show
2 cause.

3 PG&E is ordered to show cause why the above further conditions of probation should not
4 be added. Its response shall be due **JANUARY 20, 2021, AT NOON**. The government shall please
5 submit its brief by **JANUARY 25, 2021, AT NOON**. A hearing shall be held on **FEBRUARY 3, 2021,**
6 **AT 8 A.M.** by Zoom (if not in person).

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8 **IT IS SO ORDERED.**

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10 Dated: December 29, 2020.

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13 WILLIAM ALSUP
14 UNITED STATES DISTRICT JUDGE
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