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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Electric Utility Wildfire Mitigation Plans Pursuant to Senate Bill 901 (2018).	Rulemaking 18-10-007

ADMINISTRATIVE LAW JUDGE RULING ON THE COMMISSION'S ENGAGEMENT OF AN INDEPENDENT EVALUATOR AND THE ELECTRIC CORPORATIONS' REIMBURSEMENT OF THEIR EXPENSES

This ruling requires respondents to this proceeding to reimburse the Commission for expenses related to the engagement of an independent evaluator to review and inspect electrical facilities and operational practices for compliance with Commission General Orders, statutory requirements and all other applicable decisions and orders. I expect to prepare a proposed decision confirming this requirement to appear on a Commission meeting agenda for a vote in the near future.

1. Background

Senate Bill (SB) 901 was recently passed to address wildfire concerns and includes many provisions to combat the risk and intensity of wildfires. Included within its provision are mandates on the Commission that address the utilities' roles in wildfire management.

Prior to SB 901 electric corporations always had an obligation to provide safe service, and the Commission had a responsibility to ensure that obligation was met. However, as discussed below the work required to meet the Commission's responsibility has grown dramatically, and additional interim resources are necessary until the full mandate of SB 901 is implemented.

In the recent past, drought and climate change have increased the intensity and size of wildfires in California. Former Governor Jerry Brown declared several states of emergency related to drought conditions and wildfires, the two most recent being in November 2018 for Butte and the Ventura and Los Angeles County fires. Similarly, drought conditions and climate change have also resulted in more than 129 million dead or dying trees in the state since 2010. In response to the high number of tree deaths, in 2015 CAL FIRE and the California Office of Emergency Services convened a tree mortality task force, the work of which continues. To address wildfire risks, the Commission is undertaking several actions to facilitate the use by biomass facilities of feedstock from areas of the state that represent high hazard zones for wildfire and falling trees.

The potentially catastrophic impacts on public safety and the economy from wildfires caused by electric utility facilities are well recognized, as is the need to mitigate such occurrences. The 2007 Witch Fire and the 2015 Butte Fire were attributed to utility facilities. California is moving towards the reality of an expanded fire season with fire events that are more devastating and with a higher rate of occurrence, and the Commission is committed to continuing action to reduce the occurrence of wildfires related to utility facilities.

2. Discussion

SB 901 addresses an important electric-related safety issue, by requiring electric utilities and the Commission to take steps to minimize the risk of catastrophic wildfires posed by electrical lines and equipment. The new statutory requirements in SB 901 enhance public safety by introducing comprehensive fire mitigation plan provisions and requiring monitoring and auditing of the fire mitigation plans. The bill also includes requirements for each electric corporation to undergo regular safety culture assessments, with the intention of confirming that the companies are prioritizing safety throughout their organizations. It also includes a requirement that the Commission determine the maximum amount of wildfire related costs that an electrical corporation can cover

without harming ratepayers or materially impacting the corporation's ability to provide adequate and safe service. Providing for just and reasonable rates and adequate and safe service are core components of the Commission's work.

The law also contains a requirement that before March 2021, and each March thereafter, the Commission and CAL FIRE shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.[1] Each electrical corporation shall engage a listed evaluator to: (1) review and assess the electrical corporation's compliance with its Wildfire Mitigation Plan (WMP); (2) consult with, and operate under the direction of, the Commission's Safety and Enforcement Division; and, (3) issue a report regarding the electrical corporation's adherence to the WMP, including any failure to fund activities in the WMP.[2] The Commission shall consider the evaluator's findings and use them in carrying out its obligations regarding rate recovery pursuant to Chapter 3, Article 1 of Division 1 of the Public Utilities (Pub. Util.) Code.[3]

While the independent evaluator mandate of SB 901 is not required to be met before March 2021, it is abundantly clear in light of the rapidly increasing threat of catastrophic wildfires that an independent evaluator's experience in assessing the safe operations and conditions of electrical infrastructure is immediately necessary to assure the safety of the electrical grid and the citizens of California. As such, the Commission cannot wait until March 2021 to engage an independent evaluator to assess the safe operation and condition of electrical facilities. The Commission has authority to do all things necessary and convenient in the exercising of its regulatory authority, including in its oversight of electrical corporations and their obligation to provide safe and reliable service.

[1] Pub. Util. Code Section 8386(h)(2)(A).

[2] Pub. Util. Code Section 8386(h)(2)(B)(i).

[3] Pub. Util. Code Section 8386(h)(2)(B)(ii)-(iii).

Reducing wildfires will improve public safety and electric service reliability, reduce property damage, and bring resulting economic benefits to the State of California. Currently, the Commission's Electric Safety and Reliability Branch has a total of 34 staff. This number includes:

- 19 Utilities Engineer (UE) positions. UEs conduct audits and inspections, incident investigations, and customer complaint investigations for all electric and telecommunication infrastructure in California (including electric generation for power plants over 50MW). There are ten UEs in Southern California and nine UEs in Northern California.
- Five Senior Utility Engineer-Specialists (SUE) positions - two in Southern California and three in Northern California. SUEs oversee more complex investigations, assist on technically complex matters that may come up during audits and inspection, testify in hearings and provide technical expertise in Commission proceedings.
- Three positions dedicated to Wildfire Mitigation activities, including two SUEs and one UE. These individuals are involved in all matters related to wildfires, including responding to wildfires that potentially involve utility facilities, leading investigations, reviewing Wildfire Mitigation Plans per SB 901, coordinating with CAL FIRE, reviewing ignition reports submitted by utilities, advising the Commission on wildfire policy and related duties.
- Seven management positions, which includes four Senior Utility Engineer-Supervisors (technical supervisors overseeing work of UEs), two Program and Project Supervisors (one overseeing Southern California programs and another overseeing Northern California programs) and one Program Manager overseeing the entire Electric Safety and Reliability Branch.

Additionally, there is currently a budgetary request for SB 901 implementation that was included in the Governor’s proposed budget. In that request, the Commission’s Safety and Enforcement Division requested 13 positions to create a dedicated Wildfire Safety and Enforcement Branch.

These personnel have large and important tasks to perform. There are over 200,000 miles of overhead electric transmission and distribution lines in California with an additional 77,000 miles of undergrounded lines. There are approximately 2,200 electrical substations and 4.5 million utility poles.

Given recent findings by CAL FIRE that some wildfires have been associated with electrical facilities, there is an urgent and immediate need for more inspectors in the field to increase independent inspection of electrical facilities and Commission oversight of electrical corporations' inspections and operational practices. Engagement of an outside evaluator will augment and complement staff activities by providing new and specialized expertise in subjects that affect fire danger, and by increasing the number of field inspections that can be conducted before the SB 901 independent evaluator requirement goes into effect in 2021.

These immediate steps are an interim action until the full mandate of SB 901 is in place. These interim steps are expected to take approximately three years for a total cost of 15 million dollars.

IT IS RULED that:

1. The Commission will seek to hire an independent evaluator(s) to review electrical corporations' compliance with SB 901, General Order (GO) 95, and all other applicable rules, orders and decisions regarding safety and wildfire risk.

2. The Commission's use of an independent evaluator(s) for these activities cannot wait until the 2021 deadline established in SB 901.

3. The Commission's use of an independent evaluator(s) for these activities is an interim action that is expected to last approximately three years for a total cost of 15 million dollars.

4. The Commission can terminate the services of the independent evaluator(s) at any time.

5. The electrical corporations named as respondents in this proceeding, are hereby put on notice that they will be required to reimburse the Commission for the expenses of the independent evaluator(s).

6. This ruling will be subject to ratification by the full Commission at the soonest possible Commission business meeting.

Dated January 30, 2019, at San Francisco, California.

/s/ SARAH R. THOMAS
Sarah R. Thomas
Administrative Law Judge