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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Public Utilities Code Section 451.2 Regarding Criteria and Methodology for Wildfire Cost Recovery Pursuant to Senate Bill 901 (2018).

Rulemaking 19-01-006

ADMINISTRATIVE LAW JUDGE'S RULING

Motion for Extension of Time

On April 11, 2019, TURN sent an email to the Assigned Commissioner and Assigned Administrative Law Judge containing a motion seeking to extend the comment and reply comment dates in this proceeding to April 26, and May 3, 2019, respectively. TURN's request complies with Rule 11.6 which allows such requests to be made by email and was served on the entire service list. While the motion and the reasons articulated by parties at the April 10, 2019, workshop are not compelling to grant the full extension requested, they do provide good cause to allow a short extension of time for comments and reply comments on the Staff Report. Comments are now due April 24, 2019, and Reply Comments are due May 1, 2019.

TURN shall notify all other parties to the proceeding of the extension.

Parties are reminded that the opening paragraph of the comments and reply comments shall indicate that the Administrative Law Judge has granted the extension.

Questions for Party Comment

In accordance with the schedule adopted by the Scoping Memo in this proceeding, Commission staff released a report (Staff Report) on April 5, 2019, providing some initial concepts to be considered in this proceeding. As noted in the Scoping Memo and in the ruling announcing the release of the Staff Report,

[O]ther efforts ... may impact this proceeding. Governor Newsom is leading a Task Force to address the many issues related to wildfires, including wildfire costs. The Commission on Catastrophic Wildfire Cost and Recovery, created by Senate Bill (SB) 901, has been convened, hosted three meetings, and is working towards a statutory requirement of publishing a report and recommendations to the Governor and Legislature by July 1, 2019. Legislative action from these efforts may impact this proceeding.

The Commission applies existing law and, in this proceeding, the statutory directive of SB 901 (codified in part as Public Utilities Code Section 451.2) is limited to costs accrued due to a 2017 fire. The Staff Proposal is provided as a starting point for a discussion to ensure California has financially viable utilities to provide safe and reliable electrical service in the future.¹

The Commission's decision will modify the Staff Report, as appropriate, after receiving feedback from parties. To further aid our review and consideration of the issues considered in this proceeding we are seeking input on the following questions related to the Staff Report. Please provide justification to support your answers.

¹ Assigned Commissioner's Ruling, April 5, 2019 (footnotes omitted).

1. **Maximum Incremental Debt Capacity:** Staff's proposed Stress Test calculates a utility's ability to take on additional debt while maintaining minimum investment grade credit ratings as the starting point for measuring the Customer Harm Threshold. Please comment on:
 - A. The use of minimum investment grade ratings as the target for determining maximum incremental debt capacity;
 - B. Whether debt capacity should be considered the primary source of capital available to the utility; and
 - C. Any other relevant issues for this component.
2. **Excess Cash:** Staff proposes raising the Customer Harm Threshold based on cash or cash equivalents that the utilities can direct to satisfy wildfire liabilities. Please comment on:
 - A. What is an appropriate level cash for the utility to retain;
 - B. Whether evaluating excess cash may create unintended consequences, such as incentivizing utilities to keep cash balances that are too low or have aggressive dividend payouts; and
 - C. Any other relevant issues for this component.
3. **Regulatory Adjustments:** Staff proposes adjusting the sum of the first two Customer Harm Threshold components by a maximum of plus or minus 20% in the Commission's discretion and requiring the utility to describe other business opportunities it has considered, including its ability to raise equity capital, to pay wildfire liabilities. Please comment on:
 - A. The proposed amount of the adjustment (20%);
 - B. What business opportunities should be considered as eligible for regulatory adjustment (e.g., raising equity financing, dividend policy, asset sales, other reasonable sources of funding to pay wildfire liabilities, pure discretion); and
 - C. Whether, and to what extent additional Commission action is required to ensure the utility does not drop

below investment grade if the regulatory adjustment increases the Customer Harm Threshold;

- i. Please specifically address to what extent dropping below investment grade ratings
 - (a) materially impacts the utility's ability to provide safe and adequate service (due to restrictions on access to capital needed for operations and infrastructure), and
 - (b) potentially harms customers (due to increased cost of capital).

D. The proposal to modify the Regulatory Adjustments (plus or minus 5% of disallowed wildfire costs) if the Customer Harm Threshold resulting from the first two components is at zero or near zero, generally as well as the adjustment amount (5% of disallowed wildfire costs), and

E. Any other relevant issues for this component.

4. **Application of Stress Test to a Utility Below Investment Grade:** If a utility is below investment grade at the time it requests application of the Stress Test, Staff proposes that the utility must demonstrate a pathway to reach meet investment grade ratings. Please comment on:

- A. Whether a pathway to investment grade is an appropriate requirement to access the Stress Test to ensure the utility can mitigate customer harm; and

- B. Any other relevant issues for this concept.

5. **Ratepayer Protection Measures:** Staff proposes measures to allow ratepayers to realize upside financial benefits as the utility's financial condition improves, which would be adopted as a condition of recovering Stress Test Costs. Please comment on

- A. The proposal to de-escalate ROE;

- B. The proposal to provide equity warrants to ratepayers;

- C. If there are other concepts that may be utilized to provide ratepayers with compensation for bearing

the burden of Stress Test Costs or to reduce moral hazard risks;

- D. Identify in your responses any legal hurdles you perceive and the appropriate level of adjustments (percentages or basis points); and
 - E. Any other relevant issues for this concept.
6. **Process:** Staff's proposal requires a Commission determination of the reasonableness of 2017 catastrophic wildfire costs prior to, and in order to inform, an evaluation of whether disallowed costs should be allocated to ratepayers as Stress Test Costs. Comment on this proposed process including:
- A. Should the Commission determine Stress Tests Costs ahead of a decision on cost recovery for 2017 catastrophic wildfire costs under Section 451? If so, how would the Commission determine the financial components of the Stress Test model, if the cause of fires or if the total wildfire liabilities are unknown or contingent at the time;
 - B. If an alternative process is identified, provide a clear and concise explanation of the alternative process, including citation to statutory authority for the alternative process;
 - C. What information should the utility be required to submit in support of its request to recover Stress Test Costs; and
 - D. Any other relevant issues for this concept.

At the workshop held on April 10, 2019, parties sought additional time with staff to ask questions so that they may better understand the Staff Report. Staff has scheduled an additional conference call to confer with parties on the afternoon of April 17, 2019. The presentation from the April 10, 2019, Workshop is attached to this ruling, and includes corrections noted at the Workshop. That presentation and the Staff Report are admitted into the record of this proceeding.

IT IS RULED that:

1. Initial comments addressing the Staff Report and the questions set forth above are due April 24, 2019.
2. Reply comments are due May 1, 2019.
3. Parties shall address the questions set forth in this ruling in their comments on the Staff Report.
4. The Staff Report and corrected presentation from the April 10, 2019 Workshop are admitted into the record.

Dated April 12, 2019, at San Francisco, California.

/s/ ROBERT W. HAGA

Robert W. Haga
Administrative Law Judge