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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider  
Authorization of a Non-Bypassable Charge to  
Support California's Wildfire Fund.

R.19-07-017

**PREHEARING CONFERENCE STATEMENT OF THE  
ENERGY PRODUCERS AND USERS COALITION**

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August 7, 2019

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The Energy Users and Producers Coalition (EPUC)<sup>1</sup> submits this Prehearing Conference Statement pursuant to the July 26, 2019 *Order Instituting Rulemaking to Consider Authorization of a Non-bypassable Charge to Support California's Wildfire Fund* (OIR).

**I. INTRODUCTION**

Assembly Bill 1054 requires the Commission to initiate this rulemaking to consider imposing responsibility on utility ratepayers for funding the costs of payments the utilities make to claimants of wildfire damage. Section 3289(a)(1) requires the Commission:

*to consider using its authority pursuant to Section 701 to require each electrical corporation ... to collect a nonbypassable charge from ratepayers of the electrical corporation to support the Wildfire Fund established pursuant to Section 3284, including the payment of any bonds issued pursuant to Division 28 (commencing with Section 80500) of the Water Code....*

The Assembly Floor Analysis emphasizes the discretionary nature of the Commission's action.

The Analysis makes clear that the Commission will direct the utilities to recover a charge to repay bonds issued by the Department of Water Resources (DWR) *only if* "the CPUC

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<sup>1</sup> For purposes of this proceeding, EPUC members include the end-use consumer interests of the following companies: Aera Energy, LLC; California Resources Corp.; Chevron USA; PBF Holding Company; Phillips 66 Company; Shell Oil Company; and Tesoro Refining & Marketing Company LLC.

determines that the imposition of the charge is just and reasonable....”<sup>2</sup> Consequently, the Commission has full discretion to determine whether the charge should be adopted.

The significance of the Commission’s decision should not be understated. The Commission is being asked whether it is reasonable to *increase* customer rates by over \$5 for each MWh consumed, compared to what rates otherwise would be in 2022. While this may not seem shocking – particularly in light of the billions of dollars in play – it is not the only wildfire-related costs ratepayers will bear. They will be asked to bear billions more for new infrastructure, as well as other potential impacts from AB 1054 that are not yet clear.

The Commission should not treat this new charge as a “done deal,” but should take the time necessary to thoughtfully consider the exercise of its authority in the broad context of all wildfire cost responsibility.

## **II. RECOMMENDED ISSUES IN SCOPE**

The very broad scope of issues defined by the OIR adequately frames the inquiry required by Public Utilities Code §3289(a)(1) and makes ample room for virtually any related issue. The issues identified by the OIR fall comfortably within this scope, including (1) whether §701 authorizes such an action by the Commission; (2) whether a DWR bond charge would be just and reasonable; (3) whether \$880 million is the appropriate annual revenue requirement; (4) how the Commission’s relationship with DWR should operate; and (5) “other issues relating to the Wildfire Fund non-bypassable charge....”<sup>3</sup>

In focusing on the DWR bond charge, it will be critical to set the charge in the broader context of total ratepayer liability for wildfire costs to assess its reasonableness. Assuming the

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<sup>2</sup> Assembly Floor Analysis at 2 (emphasis supplied).  
[file:///C:/Users/ekahl/Downloads/201920200AB1054\\_Assembly%20Floor%20Analysis\\_%20\(1\).pdf](file:///C:/Users/ekahl/Downloads/201920200AB1054_Assembly%20Floor%20Analysis_%20(1).pdf)

<sup>3</sup> OIR at 2-3.

Commission holds competent jurisdiction to adopt such a charge, its assessment must comprehend the wildfire cost responsibility attributed by AB 1052 to ratepayers *overall*. If ratepayers' obligations for wildfire costs were limited exclusively to this charge, the charge may be reasonable. If, on balance, the collection of ratepayer responsibilities are excessive, the DWR bond charge would be unreasonable. The Commission thus must take a careful inventory of the scope of potential ratepayer responsibility for wildfire costs.

Even if the adoption of a contribution to the Wildfire Fund by ratepayers were reasonable, the revenue requirement contemplated by Water Code §80524 is not. Water Code §80540 contemplates that the DWR may issue up to \$10.5 billion in bonds. Oddly, the methodology established for the revenue requirement in Water Code §80524 means that utilities would collect and remit to DWR approximately \$880 million each year (as the OIR posits). This equates to a bond rate of approximately 5.7 percent. If DWR were able to finance the bonds at a lower rate of 2 or 3 percent, which is a more reasonable estimate of interest rates, the revenue requirement would be roughly \$640 million and \$700 million, respectively. An \$880 million revenue requirement thus is likely to generate more revenue than is needed to extinguish the \$10.5 billion bonds. Under these circumstances, an \$880 million revenue requirement would be excessive.

Further, imposing an \$880 million annual revenue requirement is inconsistent with other provisions in the statute. Public Utilities Code §3289(a)(2) requires that the new DWR bond charge would be collected in "the same manner"<sup>4</sup> as DWR's current bond charge. The DWR bond charge, today, is not designed to overcollect DWR's revenue requirement; overcollections are returned to ratepayers, and undercollections are recovered from ratepayers.

EPUC looks forward to discussing these and other important issues in comments.

### **III. PROCEDURAL ISSUES**

EPUC agrees that this proceeding is properly categorized under Rule 7.1(d) as a ratesetting proceeding, with its attendant *ex parte* requirements. EPUC further agrees preliminarily that hearings likely will not be required, although EPUC does not waive its right to request hearings at a later date. The schedule thus should include a date for requesting hearings, which EPUC requests be set for five days following submission of reply comments.

EPUC also proposes a schedule modification. The OIR, like nearly every Commission proceeding of recent memory, proposes a highly accelerated schedule. Comments will be due within 10 days of the issuance of the Scoping Memo. Recognizing the resource strain on all parties owing to the Commission's acceleration of a wide range of proceedings – including all wildfire-related proceedings, cost of capital applications and others – EPUC requests a more just and reasonable schedule. If the Commission hopes for thoughtful input from stakeholders, it must provide sufficient time to think through these complex issues.

Other than a general desire to move things along expeditiously, there is no clear reason why a decision must be issued by October 2019. Any financing by DWR will not occur, if at all, for another two years. EPUC thus requests that initial comments be set for September 12 with reply comments due on September 19.

Finally, as discussed above, the OIR advances a proposed revenue requirement of \$880 million for a DWR bond charge. While EPUC presumes the value was calculated using the methodology specified in Water Code §80524(a), the Commission should provide its calculations to all parties with the issuance of the Scoping Memo.

**IV. COMMUNICATIONS**

Communications on behalf of the Energy Producers and Users Coalition in this proceeding should be directed as follows:

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**V. CONCLUSION**

For the reasons stated above, EPUC respectfully requests consideration of the proposals set forth herein.

August 7, 2019

Respectfully submitted,

Evelyn Kahl



Counsel to the Energy Producers and Users  
Coalition