



**BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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Order Instituting Investigation on the )  
Commission's Own Motion to Determine )  
Whether Pacific Gas and Electric Company and ) Investigation 15-08-019  
PG&E Corporation's Organizational ) (filed August 27, 2015)  
Culture and Governance Prioritize Safety. )  
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**OPENING COMMENTS OF  
THE AMERICAN PUBLIC POWER ASSOCIATION**

Sean M. Neal  
DUNCAN, WEINBERG, GENZER &  
PEMBROKE, P.C.  
Sacramento, CA 95814  
Telephone: (916) 498-0121  
Facsimile: (916) 498-9975  
E-mail: [smn@dwgp.com](mailto:smn@dwgp.com)

Counsel for the American Public Power  
Association

Dated: February 13, 2019

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**OPENING COMMENTS OF  
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In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), the *Assigned Commissioner’s Scoping Memo and Ruling* (“Scoping Memo”), filed December 21, 2018, and the Assigned Administrative Law Judge’s *Email Ruling Granting Extension of Time*, issued on January 24, 2019 pursuant to Rule 11.6, the American Public Power Association (“APPA”) respectfully submits its opening comments in the above-captioned proceeding.<sup>1</sup>

These comments provide information that APPA believes will be useful to the Commission in considering whether some or all of Pacific Gas and Electric Company (“PG&E”) should “be reconstituted as a publicly owned utility or utilities.”<sup>2</sup> While APPA takes no position regarding what specific actions, if any, the Commission should pursue concerning PG&E’s governance, structure, and operations, APPA wishes to highlight for the Commission the significant safety, reliability, and other benefits of publicly owned electric utilities.<sup>3</sup>

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<sup>1</sup> APPA is the national service organization representing the interests of not-for-profit, state, municipal, and other locally owned electric utilities throughout the United States.

<sup>2</sup> Scoping Memo at 12.

<sup>3</sup> In referring to publicly owned electric utilities, APPA typically uses the term “public power utilities,” and the two labels are used interchangeably in these comments. Also, under California law and practice, the term “Local Publicly Owned Electric Utilities”, Cal. Pub. Util. Code § 224.3 (2018), or “Publicly

## I. RESPONSE TO THE SCOPING MEMO

The Scoping Memo states that “PG&E has had serious safety problems with both its gas and electric operations for many years.”<sup>4</sup> The Commission describes the steps it has taken, including initiating this docket in 2015, to examine the safety culture at PG&E and PG&E Corporation.<sup>5</sup> This phase of the proceeding is intended to “examine PG&E’s and PG&E Corporation’s . . . current corporate governance, structure, and operations to determine if the utility is positioned to provide safe electrical and gas service . . .”<sup>6</sup> The Commission states that it “will consider a broad range of alternatives to current management and operational structures for providing electric and natural gas in Northern California.”<sup>7</sup> The “keystone question,” the Commission explains, is whether any of the proposals included in the Scoping Memo would “provide Northern Californians safer gas and electric service at just and reasonable rates.”<sup>8</sup> Among the alternative structures on which the Commission solicits comment is whether “some or all of PG&E [should] be reconstituted as a publicly owned utility or utilities.”<sup>9</sup>

APPA reiterates that it is not offering an opinion as to what actions, if any, the Commission ultimately should take in connection with this inquiry.<sup>10</sup> As the national service

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Owned Utilities (“POUs”)” are used to describe the types of utilities that APPA represents and refers to herein when discussing publicly owned electric utilities and public power utilities.

<sup>4</sup> Scoping Memo at 3. Following issuance of the Scoping Memo, on January 29, 2019, PG&E and its parent company, PG&E Corporation, filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Northern District of California. PG&E has cited potential wildfire-related liabilities as the primary factor in the decision to seek bankruptcy protection.

<sup>5</sup> *Id.* 5.

<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Id.* at 9.

<sup>9</sup> *Id.* at 12.

<sup>10</sup> The Scoping Memo states that “parties’ comments shall follow the same format provided in this ruling.” *Id.* at 13. While APPA’s comments are intended to provide general insights into utility safety, reliability and governance, to the extent APPA’s comments fit within any single category identified in the

organization representing public power utilities, however, APPA can provide the Commission with important information regarding publicly owned utilities.<sup>11</sup>

#### **A. Public Power in the United States**

Public ownership of electric utility service is as old as the electric industry in the United States. Today, more than 2,000 public power utilities, located in every state except Hawaii, provide over 15 percent of all electric energy (kilowatt-hour) sales to ultimate customers. Collectively, public power utilities serve over 49 million people. APPA member utilities serve some of the nation's largest cities, such as Los Angeles, Sacramento, Seattle, Jacksonville, San Antonio, Austin, Memphis, and Orlando. But the majority of APPA member utilities serve communities of less than 10,000. Regardless of the size of the utility, the primary goal of APPA's utility members is providing customers in the communities they serve with safe and reliable electric power and energy at the lowest reasonable cost, consistent with good environmental stewardship. This orientation aligns the interests of public power utilities with the long-term interests of the residents and businesses in their communities.

#### **B. Characteristics of Publicly Owned Electric Utilities**

The Scoping Memo seeks input regarding, among other things, how its various proposals would impact "the utility's relationships with and role in local communities."<sup>12</sup> In the case of public power utilities, the community *owns* the utility, and, therefore, controls the utility's priorities. Community accountability is a distinctive attribute of publicly owned utilities.

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Scoping Memo, they would best fit within the category, "Publicly Owned Utilities, Cooperative, Community Choice Aggregation or other Models."

<sup>11</sup> APPA has published a detailed guide regarding the benefits of the public power business model and municipalization. This guide contains additional detail on many of the points made in these comments. See *Public Power for Your Community*, available at: [https://www.publicpower.org/system/files/documents/municipalization-public\\_power\\_for\\_your\\_community.pdf](https://www.publicpower.org/system/files/documents/municipalization-public_power_for_your_community.pdf).

<sup>12</sup> Scoping Memo at 13.

Indeed, many of the advantages of public power utilities – including an emphasis on reliability and safety – flow from this simple concept. These utilities are citizen-owned, locally controlled, not-for-profit institutions where economic benefits are retained at home and safe and reliable service to customers is the prime motivation for policies and personnel.

Public power utilities are governed and regulated by the city council or county commissioners, or an independent utility board whose members may be elected or appointed by local officials. This means customers have more say in the policies and practices of the utility. Citizens participate in the governance of the utility at the ballot box, and through participation in city council and utility board meetings, public hearings, citizen advisory committees, and other public forums. Importantly, the business of publicly owned utilities is conducted in the open, subject to open meetings, public records laws, and local scrutiny. Citizens have access to planning alternatives, cost estimates, performance and other reports. The ability to tailor operations and services to the local community, its values and policy preferences, is the foundation of public power's success.

### **1. Promoting Safe and Reliable Service**

The focus of this proceeding is ensuring safe electric and gas service. Public power utilities have a strong record of focusing on core operations and delivering a safe and reliable supply of electricity. These utilities have a longstanding commitment to both workplace and public safety, with the goal of zero injuries in their communities. Because of their connection to customers, publicly owned utilities are motivated to maintain the community's assets to keep their local systems operating continuously and efficiently. Maintaining the highest caliber of service is one of the core facets of a publicly owned utility's business model.

The elected officials who oversee publicly owned utilities are accountable to voters, who are also the utilities' ratepayers. Since a publicly owned utility's customers are its owners, there is no conflict between the needs of customers and the needs of shareholders. The utility's local accountability ensures it delivers excellent customer service. If it does not, unsatisfied customers can (and do) make their displeasure known at open-to-the-public utility board or city council meetings.

A publicly owned utility may also have practical advantages over large, investor-owned utilities in ensuring safety and reliability. Local crews are more apt to be familiar with the local electric and gas distribution systems, which can allow for more informed monitoring of system conditions, and promote faster identification and correction of problems. Further, as an entity of the local government, publicly owned utilities benefit by coordinating responses with other local emergency services. At the same time, public power utilities, like all electric utilities operating interconnected network transmission and generation facilities, are subject to strict federal reliability standards to ensure continuity of service.<sup>13</sup> These standards are developed by the North American Electric Reliability Corporation ("NERC") and enforced by NERC and the Federal Energy Regulatory Commission.

Individual publicly owned utilities can also rely on the combined resources of the broader public power community to promote safe and reliable service. In the event of a major outage, public power utilities coordinate with each other and with neighboring utilities to receive and provide assistance through a broad network of mutual aid programs. A national mutual aid agreement signed by more than 2,000 public power utilities and rural electric cooperatives links utilities so they can help each other in times of need. Public power utilities may also have other

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<sup>13</sup> See 16 U.S.C. § 824o.

local, state, and regional contracts and agreements in place to render mutual aid. In 2013, APPA formed a Mutual Aid Working Group (“MAWG”) to formalize the existing mutual aid network for the nation’s public power utilities. The MAWG developed the Public Power Mutual Aid Playbook to outline the step-by-step plan for public power utilities, network coordinators, and APPA to refer to before and during a disaster to ensure an expeditious and organized response.<sup>14</sup>

APPA also sponsors a number of industry-leading safety and reliability programs and resources to support public power utilities:

- **The APPA Safety Manual** is the premier source for safety compliance information for utilities. APPA updates the manual every 4 to 5 years to reflect National Electrical Safety Code updates, Occupational Safety and Health Administration standards, and important changes in the industry. The latest edition of the Safety Manual was released in May 2017.
- **The eReliability Tracker** is an affordable, easy-to-use, mobile-friendly, web-based service that provides public power utilities with an effective way to collect, categorize, and summarize outage information. Users can run in-system reports to view a monthly snapshot of their utility’s reliability performance, identify problem areas and common outage causes, and calculate Institute of Electrical and Electronics Engineers (“IEEE”) Standard 1366 reliability indices. The eReliability Tracker also allows a public power utility to benchmark its performance against other public power utilities that use the service. APPA prepares an annual benchmarking report for each user that analyzes

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<sup>14</sup> The Public Power Mutual Aid Playbook provides a protocol to coordinate dialogue and actions across a three-tiered national communications network, without impinging on one-on-one mutual aid agreements between utilities. Utility coordinators communicate with local and county partners; network coordinators correspond with state and regional partners; and the national coordinator collaborates with the Edison Electric Institute, National Rural Electric Cooperative Association, and emergency management agencies.

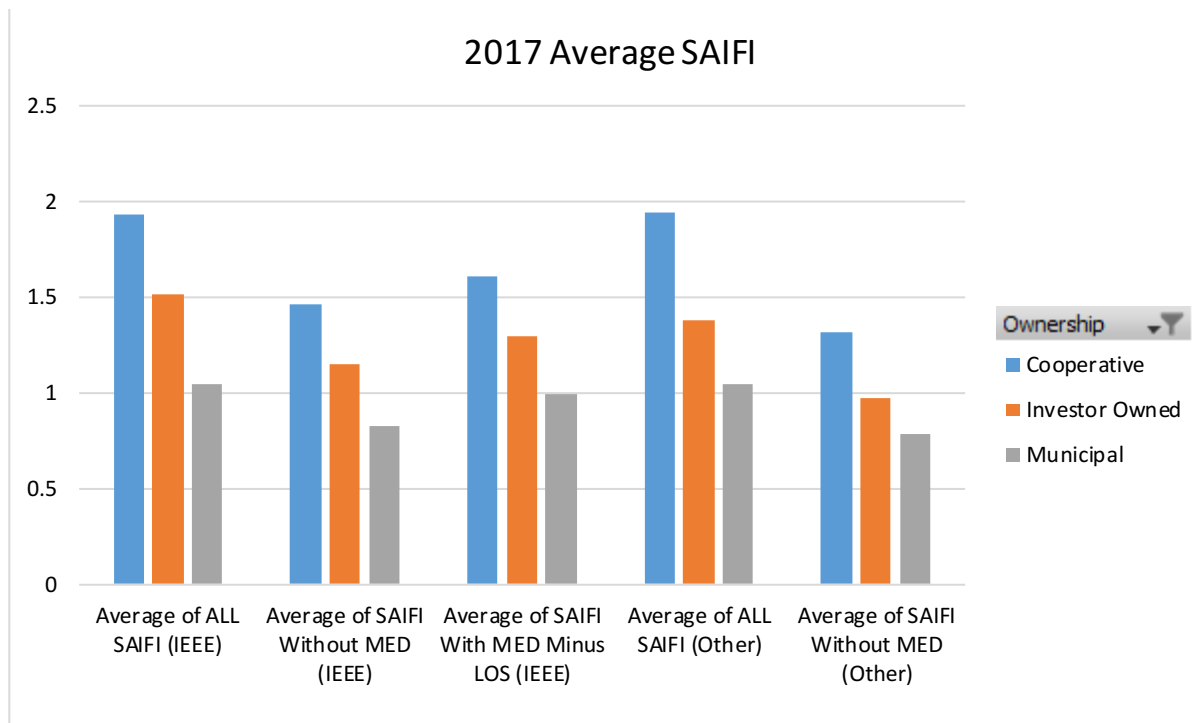
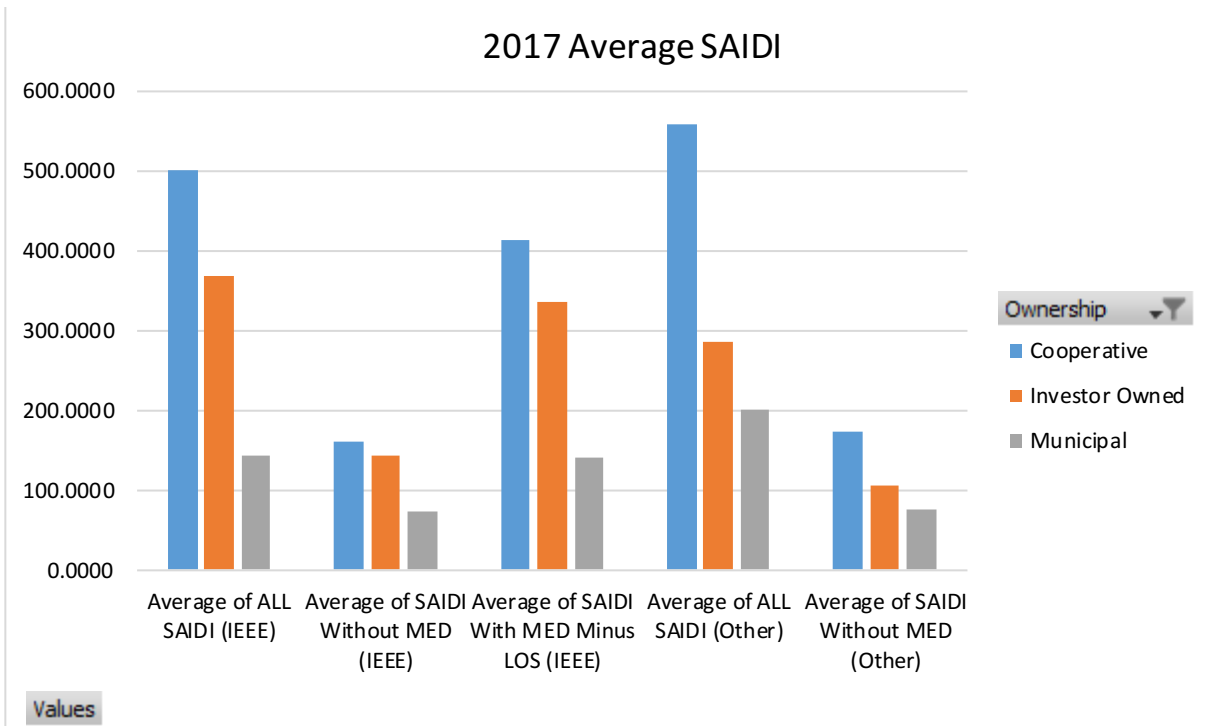
aggregate data and compares utilities by geographic region, customer density, and outage type, allowing users to learn from one another. By comparing its reliability performance to that of its peers, a public power utility can more clearly identify its strengths, and also specifically target reliability drivers that may need improvement.

- **The Reliable Public Power Provider (RP3)** program recognizes utilities that demonstrate high proficiency in reliability, safety, workforce development, and system improvement. Recognition by the RP3 program demonstrates to community leaders, governing board members, suppliers, and service providers a utility's commitment to its employees, customers, and community. An RP3 designation is a sign of a utility's dedication to operating an efficient, safe, and reliable distribution system. The recognition is based upon review of an extensive application conducted by a panel of subject matter experts from other public power utilities. While not originally intended for this purpose, public power utilities that have attained RP3 designation have found bond rating agencies regard it as an indicator of sound management and governance practices.
- **The Cybersecurity for Energy Delivery Systems (CEDs)** program is based on a three-year cooperative agreement executed in 2016 between APPA and the U.S. Department of Energy that provides APPA with up to \$7.5 million to help public power utilities create stronger, more secure systems.

The service reliability of electric utilities can be measured by use of industry outage data.

The charts below provide SAIDI (System Average Interruption Duration Index) and SAIFI (System Average Interruption Frequency Index) information for electric utilities across the United States based on 2017 data reported in the Energy Information Administration ("EIA") Form 861.





The charts illustrate that, among utilities reporting data, public power utilities have lower (*i.e.*, better) average SAIDI and SAIFI values than either investor-owned utilities or electric cooperatives. The values for public power utilities remain lower than the scores for investor-

owned and cooperative utilities regardless of how SAIDI and SAIFI are reported.<sup>15</sup> While a utility's SAIDI and SAIFI values can be influenced by a wide variety of factors, including customer density and the natural features (*e.g.*, vegetation) of a utility's service territory, the SAIDI and SAIFI data above document the proficiency of public power utilities in providing reliable service to their customers.

The Commission's purpose in this proceeding is to evaluate different options to ensure safe electric and gas service in the PG&E service territory. Publicly owned utilities have a long and consistent record of delivering a safe and reliable supply of electricity at reasonable rates.

## **2. Other Benefits of Publicly Owned Utilities**

In addition to a commitment to providing safe and reliable electric service, publicly owned utilities offer a number of benefits that APPA wishes to highlight for the Commission.

### **a. Reasonable Rates**

Across the country, public power utilities lead the way in providing customers with low-cost energy for homes and businesses. Public power customers pay less, on average, than do customers of investor-owned utilities, as they have year after year since the federal government began keeping electricity rate statistics more than 70 years ago. According to EIA data from 2017, nationwide, average electricity rates for all investor-owned utility customers in all customer classes exceeded average rates paid by public power customers. The difference was particularly pronounced when looking at rates paid by residential customers. The residential

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<sup>15</sup> There are a number of different ways to calculate SAIDI and SAIFI. IEEE 1366 provides guidance on calculating these reliability indices, including taking into account Major Event Days ("MED") and/or Loss of Service ("LOS") events. The IEEE 1366 method ensures that only statistically significant events based on the utility's own outage history can be excluded and that the threshold is the same for every utility. As can be seen in the EIA data, not all utilities use the IEEE method for excluding MEDs. In non-1366 MED cases, APPA has found that the metric is typically set by a board or commission at some reasonable threshold, such as when 10 percent of customers are without power. This means, however, that IEEE and non-IEEE MED are not "apples-to-apples" comparable without additional data.

customers of investor-owned utilities paid average retail rates that were 14 percent above those paid by customers of publicly owned systems. Public power customers paid 11.82 cents per kilowatt-hour for residential electric service, compared to 13.49 cents per kilowatt-hour paid by residential customers of investor-owned utilities. In California, investor-owned utility residential rates were 21 percent higher than public power residential rates: 19.0 cents per kilowatt-hour versus 15.7 cents per kilowatt-hour.<sup>16</sup>

The publicly owned utility business model has certain inherent characteristics that restrain costs and customer rates. Rates are set locally by citizen-controlled boards or city councils that operate in the public eye, and local cost-consciousness and public scrutiny of utility expenditures keep the utility's budget in check. Further, publicly owned utilities often benefit from improved efficiencies achieved through sharing personnel, equipment and supplies with the local government.

The biggest determinant in the lower rates offered by publicly owned utilities is their not-for-profit status. As not-for-profit entities, publicly owned utilities have no incentive to sustain high prices to benefit shareholders. Publicly owned utilities determine investments in facilities based on the benefit to safety, reliability, efficiency, and customer cost. As a result, publicly owned utilities do not have an economic bias toward high-cost, capital-intensive technologies or system "gold plating" to increase rate base.

In comparing different forms of utility organization, tax considerations are also a factor. Investor-owned utilities generally include an allowance for corporate income taxes in the rates paid by customers, but they also benefit from various provisions of the U.S. Tax Code, such as accelerated depreciation and associated accumulated deferred income taxes. Publicly owned

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<sup>16</sup> Source: Energy Information Administration Form EIA-861, 2017 data.

utilities benefit from access to tax exempt bonds. The federal tax exclusion of bond interest means municipal issuers can finance their investments affordably. Municipal bonds are well suited to finance capital-intensive and long-lived public infrastructure.

The three largest credit rating companies acknowledge the advantages of the publicly owned utility business model and assign higher ratings, on average, to publicly owned utilities than to investor-owned utilities. Moody's Investors Service, for example, recently affirmed a stable outlook for the public power utility sector in 2019, highlighting the credit strengths of these utilities:

Moody's Investors Service is maintaining its stable outlook for the public power electric utility sector for 2019, reflecting the industry's self-regulated cost recovery mechanisms, sound financial metrics and competitive product. The willingness and ability to set retail electricity rates is a fundamental credit strength of public power utilities, and serves as the key indicator for Moody's sector outlook.<sup>17</sup>

Fitch Ratings and S&P Global cite similar credit positives in assessing public power utilities.<sup>18</sup>

#### **b. Responsiveness to the Community**

Publicly owned utilities work in partnership with their citizens, and must be responsive to community values. Simply put, when the community owns the utility, the community controls the utility's priorities. For public power utilities, this means making a priority customer preferences on matters such as environmental stewardship, distributed energy resources,

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<sup>17</sup> Moody's Investors Service, "Research Announcement: Moody's: 2019 outlook for US public power electric utility sector is stable" (Dec. 6, 2018).

<sup>18</sup> See Fitch Ratings, "Fitch Ratings 2019 Outlook: U.S. Public Power and Electric Cooperative Sector" (Dec. 6, 2018) (observing that "[t]he fundamental strengths of the sector include: autonomous rate-making authority, the essential nature of electric service, mandates to serve well-defined areas with monopolistic characteristics, a relative cost-of-capital advantage over investor-owned utilities, and reliable cash flow."); S&P Global, "U.S. Public Power and Electric Cooperative Utilities 2019 Sector Outlook: Ratings Stability Persists in a Difficult Era" (Jan. 22, 2019) (stating that "we view the autonomous ratemaking authority available to most of these [public power and electric cooperative] utilities as providing capacity to perpetuate a sound alignment among revenues, expenses and debt service as they respond to evolving exposures.").

distribution system resilience, investments in local infrastructure, and other issues that directly affect them.

### **C. Catastrophic Events**

The Commission’s Scoping Memo requests comment on how its proposals would impact “the ability of the utility to meet financial challenges posed by large catastrophic events such as earthquakes and wildfires.”<sup>19</sup> The best way to mitigate the consequences of catastrophic events is to implement strategies to reduce the likelihood of an event as well as prepare for them before they happen. APPA supports the public power community in developing preparedness programs based on an “all hazards” approach to addressing system risks.<sup>20</sup> A key component of a preparedness program is an effective planning process that allows for systematic risk identification and provides opportunities to manage, reduce, or eliminate risks in the future. Such a risk planning process can include strategies for mitigating the physical impact or reducing the likelihood of a risk through physical changes (*e.g.*, system hardening), limiting the financial impact to the organization through insurance or other risk-sharing models, and developing processes and capabilities to respond to and quickly recover from the risk when it is realized.<sup>21</sup>

When catastrophic events do occur, public power utilities are in a strong position to meet the financial challenges they can impose. As explained above, rates for publicly owned utilities

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<sup>19</sup> Scoping Memo at 13.

<sup>20</sup> *See, e.g.*, APPA’s *All Hazards Guidebook*, available at [https://www.publicpower.org/system/files/documents/All-Hazards-Guidebook\\_0.pdf](https://www.publicpower.org/system/files/documents/All-Hazards-Guidebook_0.pdf). The *All Hazards Guidebook* is based upon work supported by the Department of Energy under award number DE-OE000075.

<sup>21</sup> *See APPA All Hazards Guidebook, supra*, at 9. Public power utilities have participated voluntarily, providing their expertise and insight, in the Commission’s ongoing Phase 2 proceeding concerning emergency and disaster preparedness, Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Regulation of Physical Security for the Electric Supply Facilities of Electrical Corporations Consistent with Public Utilities Code Section 364 and to Establish Standards for Disaster and Emergency Preparedness Plans for Electrical Corporations and Regulated Water Companies Pursuant to Public Utilities Code Section 768.6, Proceeding No. R.15.06-009.

are set locally by citizen-controlled boards or city councils. This rate-setting approach is viewed as a credit strength by lenders, while at the same time requiring utility management to be responsive to the sentiments of affected community members. Of course, public power utilities can and do take prudent steps to insulate customers from the financial impact of natural disasters through insurance and other risk sharing products.<sup>22</sup> Further, where major disasters or emergencies disrupt the normal functioning of governments and communities and special federal measures are necessary, public power utilities may be entitled to public assistance provided through the Federal Emergency Management Agency (“FEMA”) under authorization of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.<sup>23</sup>

The Scoping Memo specifically references the financial challenges associated with wildfires.<sup>24</sup> Wildfires are a particularly grave risk to lives and property in California, and the financial risks imposed on electric utilities from wildfire liability can be particularly severe in the State. Under California’s no-fault, strict liability laws, electric utilities, including public power utilities, are liable for damages even if they adhere to all established safety and maintenance requirements. The California Municipal Utilities Association (“CMUA”), a state association member of APPA, has observed that this system of wildfire liability allocation is unsustainable in the face of increasingly severe and frequent weather. Thus, while public power utilities are well-positioned to mitigate and respond to the financial challenges associated with catastrophic

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<sup>22</sup> APPA is a resource for its members in assessing their insurance needs. For example, in 2017, APPA and Wortham Power Gen Insurance conducted a benchmarking survey of more than 100 utilities regarding the type of insurance they purchase, from which companies, for how much, and for what terms. The survey also captured information on the types of new insurance offerings public power utilities need. The survey provided detailed benchmarking data across the insurance spectrum, including property and casualty, worker’s compensation, and cybersecurity programs.

<sup>23</sup> Categories of assistance that public power utilities generally receive include debris removal, emergency protective measures, and utility restoration and reconstruction. Public power utilities also receive assistance in planning and design for hazard mitigation and in making disaster mitigation investments.

<sup>24</sup> Scoping Memo at 13.

events, it is important to strike an appropriate balance in allocating wildfire liability risk between electric utilities and other stakeholders to ensure that California’s utilities can continue to provide affordable and reliable service while achieving the State’s climate goals.

#### **D. Feasibility**

The Scoping Memo solicits “initial observations on the legal, technical, and financial feasibility” of the proposals contained in the Ruling, including reconstituting PG&E as a publicly owned utility or utilities.<sup>25</sup> In response, APPA would simply observe that the objections and concerns raised in response to municipalization proposals are typically based on misinformation, particularly exaggeration of the obstacles to municipalization and underestimation of the likely benefits.<sup>26</sup> Reorganizing investor-owned utilities into publicly owned utilities can be a workable and feasible process, even for a large utility, as evidenced by the creation of the Long Island Power Authority in New York in 1998, as successor to the investor-owned Long Island Lighting Company. Consideration of the publicly owned utility option in this proceeding should be based on a thorough and objective evaluation of the benefits it may provide.

## **II. CONCLUSION**

APPA appreciates the opportunity to provide the Commission with this information regarding the publicly owned utility business model as it considers the alternatives presented in the proceeding. While APPA takes no position on whether PG&E should be reconstituted as a publicly owned utility, we stand ready to serve as a resource to the Commission and other

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<sup>25</sup> *Id.* at 13.

<sup>26</sup> *See generally Public Power for Your Community* at footnote 11, *supra*.

stakeholders.

Dated: February 13, 2019, at Sacramento, California.

Respectfully submitted,

By: /s/ Sean M. Neal

Sean M. Neal  
Counsel for the American Public  
Power Association

DUNCAN, WEINBERG, GENZER &  
PEMBROKE, P.C.  
915 L Street, Suite 1410  
Sacramento, CA 95814  
Telephone: (916) 498-0121  
Facsimile: (916) 498-9975  
E-mail: [smn@dwgp.com](mailto:smn@dwgp.com)