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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
(Filed October 25, 2018)

INTERVENOR COMMENTS OF SMALL BUSINESS UTILITY ADVOCATES

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SUMMARY OF RECOMMENDATIONS

SBUA respectfully requests that the Commission take the actions summarized below:

- Commission Approval of the Mitigation Plans should only mean the utilities have complied with SB 901's requirement to develop these Plans;
- The utilities should track the number of small commercial structures damaged and destroyed by wildfires;
- Notification procedures for small businesses need to improve;
- SCE's proposal for customer support after a wildfire should serve as a model for the other utilities;
- Undergrounding of power lines is a preferred option over reclosers;
- The utilities should conduct microgrid pilot programs.

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INTRODUCTION AND SUMMARY

Pursuant to the December 7, 2018 *Assigned Commissioner’s Scoping Memo and Ruling* (“Scoping Memo”), Small Business Utility Advocates (“SBUA”) submits the following Comments on the utilities’ wildfire mitigation plans (“Mitigation Plans” or “Plans”) prepared pursuant to Senate Bill (“SB”) 901. SBUA’s comments focus on the interests of small business customers, who, like residential and larger commercial customers, are impacted by wildfires but may have differing customer concerns and perspectives on the Mitigation Plans.

SBUA believes the proposed Mitigation Plans are commendable, especially at such short timing, but recommends additional changes be made, as detailed below. Where appropriate, we emphasize the importance of designing the Plans’ objectives, strategies, and metrics to consider the unique needs of hard-to-reach customers and small commercial centers in wildfire emergencies and planning.

I. MEANING OF PLAN APPROVAL

a. Approval of the Plans Does Not Impact the Reasonableness Review Under Article 1 of the Public Utilities Code

Approval of the Mitigation Plans should only have the effect of determining that the Plans have complied with Public Utilities Code section (§) 8386(c). Given the short time frame of this proceeding and limited opportunities for comments and testimony, SBUA believes the

Commission should use the Mitigation Plans as a more general framework and develop further details in future and/or ongoing related proceedings at the Commission.

The Commission's final decision in this Rulemaking should steer away from finding that the Plans also comply with other provisions of SB 901 including the Commission's duty to conduct a reasonableness review as indicated by Public Utilities Code § 8386(g) and § 451.1.¹ This proceeding does not allow parties sufficient time to provide the depth of analysis required for the Commission to make findings on the reasonableness of costs associated with the plans or whether a utility meets the Prudent Manager Standard for management of its system.²

SBUA does agree, however, that any final Approval of the Plans by the Commission should have the dual effect of communicating to the Legislature and the public that the utilities have developed Mitigation Plans as required by SB 901 and that the Commission has approved the Plans in a timely manner.³ Public Utilities Code § 8386(b) requires the utilities to develop Mitigation Plans; § 8386(c) outlines the minimum requirements for the Plans; and § 8386(d) requires the Commission to approve the Plans within three months of their submission, or within the time extended to by the Commission. These are the only immediate statutory requirements that the Commission must meet. Going beyond these threshold requirements would be premature.

Moreover, Public Utilities Codes § 8386(g) specifies that it was not meant to "be interpreted as a restriction or limitation on Article 1 (commencing with section 451)[.]"⁴ This

¹ Public Utilities Code § 8386(g) ("The commission shall consider whether the cost of implementing each electrical corporation's plan is just and reasonable in its general rate case application." (emphasis added). Unless otherwise noted, further references to the code are to the Public Utilities Code.

² Several parties commented on this issue during the Technical Workshop held on February 26, 2019, as well as during the Prehearing Conference held on February 26, 2019.

³ § 8386(b), (c), (e).

⁴ § 8386(g).

means that approval of the Plans does not override the need to conduct the reasonableness review under section 451, which is critical to ratepayers costs, including small businesses, and SBUA believes should involve hearing and discovery on a separate track. Likewise, Public Utilities Code § 8386(h) states that each utility needs to hire an independent evaluator to assess the utility's compliance with its plan and that the evaluator's "findings shall be used by the commission to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1."⁵ This provision also supports the conclusion that the Commission must continue to conduct a reasonableness review of costs associated with implementation of the Plans, that is independent of its determination to approve the Plans.

Public Utilities Section § 8386(g) directly references the General Rate Cases ("GRC") as the venue where the Commission must consider whether the costs arising from implementation of the Plans are just and reasonable.⁶ SBUA supports this interpretation because the GRCs allow for more meaningful public participation and development of the record on which to base determinations of reasonableness on.⁷ In contrast, this proceeding has had limited opportunities for public participation due to the statutory deadline imposed on the Commission necessitating approval of the plans prior to commencement of the 2019-2020 fire season in the summer of 2019. A finding of reasonableness based on a limited record is improper, particularly because other venues allowing meaningful public participation exist.

Furthermore, Public Utilities Section § Section 451.1 requires a separate review mechanism specific to Mitigation Plans. Section 451.1 enumerates 12 factors the Commission should consider in determining whether to allow cost recovery, of which compliance with the

⁵ § 8386(h)(2)(B)(iii).

⁶ § 8386(g); *see also* TURN's Conditional Motion.

⁷ *See also* TURN's Conditional Motion, at 10-13.

Mitigation Plans is only a subpart of one of the factors. The ninth factor directs the Commission to consider “[t]he electrical corporation’s compliance with regulations, laws, commission orders, and its wildfire mitigation plans prepared pursuant to Section 8386, including its history of compliance.”⁸ This factor alone indicates that compliance with Mitigation Plans does not automatically mean the utility behaved prudently and that the reasonableness review should consider several other factors as well, beyond the scope of the instant Rulemaking. Moreover, section 451.1 indicates that the Commission may consider any “[o]ther factors the commission finds necessary to evaluate the reasonableness of the costs and expenses[.]” This further demonstrates that the Legislature intended for the Commission to consider an array of factors, and not just the Plans themselves, prior to determining whether implementation of the Plans is done in a reasonable manner.

b. Approval of the Plans Should Not Impact the Prudent Manager Standard

In addition, approval of the Plans should not mean that the utilities have met the Prudent Manager Standard. As the Commission has stated, under the Prudent Manager Standard, “a utility has the burden to affirmatively prove that it reasonably and prudently operated and managed its system.”⁹ Finding that approval of the Plans has the effect of meaning the utilities have met the Prudent Manager Standard, would fall short of performing the analysis required with the definition of the Prudent Manager Standard. Similarly, the utilities have argued that approval of the plans should have the effect of deeming the plans reasonable because they are developing the plans as required by statute. These arguments are unpersuasive and suggest that developing programs that meet minimal statutory guidelines automatically means that costs

⁸ § 451.1.

⁹ D.18-07-025, Order Denying Rehearing of Decision (D.) 17-11-033 (July 13, 2018), at 3.

incurred are reasonable. There are numerous, complex factors to be considered, as outlined in SB 901, to ensure the utilities meet the Prudent Manager standard.

II. OVERALL OBJECTIVES AND STRATEGIES

Overall the objectives and strategies for the Mitigation Plans should be to reduce the risk of wildfires and assist customers in the event of a disaster. As discussed below, SBUA also believes that the Plans objectives should be to include proposals that are fair and equitable proposals to all customer classes, including for small commercial customers, and especially with regard to customer support and outreach, wildfire preparedness, and response.

III. RISK ANALYSIS AND RISK DRIVERS

SBUA has no comment on this topic.

IV. WILDFIRE PREVENTION STRATEGY AND PROGRAMS

a. Reclosers and Undergrounding

SBUA opposes the use of recloser shutoff and power shutoff as a standard practice. In some instances, reclosers may elevate the risk of a catastrophic wildfire particularly if they are not reprogrammed during wildfire season.¹⁰ Reclosers may send jolts of energy to power lines in contact with dry branches in efforts to reenergize these lines, but these jolts can cause fires when they come in contact with branches.¹¹ Undergrounding of power lines, though requiring significant upfront investment, are a favorable alternative to reclosers because they produce the greatest reduction of wildfire risk. Prior to engaging in undergrounding efforts, the utilities need to notify customers who may have power temporarily shutoff and work with small business and low-income customers to determine methods to minimize the harm to these customers. Power shutoffs can leave customers without energy for several hours or a couple of days. Small

¹⁰ <https://www.sfchronicle.com/bayarea/article/Power-line-restart-device-implicated-in-past-12324764.php>

¹¹ *Id.*

businesses who rely on the sale of perishable goods would be significantly impacted by a power shutoff of more than a few hours, necessitating utility coordination with these customers prior to engaging in undergrounding of power lines.

b. Microgrids

SBUA recommends that the Commission require all of the utilities to consider microgrids as part of their Mitigation Plans. Microgrids can minimize unintended harms caused by power shutoffs commenced in emergency situations. These unintended consequences include health and safety issues if small local businesses who are the only suppliers of goods and services to particular communities/neighborhoods are left without power.

SBUA supports PG&E's Plan proposal to establish "resilience zones," which effectively will operate like microgrids.¹² According to the Plan, PG&E will provide electricity to select community resources during PSPS, such as grocery stores and gas stations, while the broader grid is de-energized. Resilience Zones will be energized through pre-installed interconnection hubs and may evolve into "resilience zone microgrids."¹³ We offer a few limited suggestions on how to improve this pilot and specifically with regard to how PG&E will select the community resources that will receive electricity. SBUA's concern is that this pilot will target larger stores or service providers and leave out small businesses. For some communities, local small businesses are the only providers of essential goods and services so these businesses should also be supplied with energy.

SBUA recommends that the Mitigation Plans of the other utilities include pilot programs similar to PG&E's that operate effectively as microgrids. At a minimum, these programs should reach out to hard-to-reach commercial customers. The Commission should use the definition of

¹² PG&E Plan, at 99.

¹³ *Id.*

“hard-to-reach customers” adopted in D.18-05-041 which considers a commercial customer to be hard-to-reach based on the following factors: geographic location of the business, the owner primarily speaks a language other than English, the business rents/leases the facility, the business has less than ten employees or has a low energy consumption.¹⁴ We recognize that the Commission will establish protocols for de-energization in a separate proceeding,¹⁵ but the Mitigation Plans should consider and propose pilots for implementing this technology. In the alternative, the Commission should require that the utilities propose such pilots in the subsequent Mitigation Plans.

c. Customer Support After a Wildfire

SBUA recommends that all of Mitigation Plans (with the exception of SCE’s Plan, as noted below) be revised to specifically consider how best to assist small business customers. The utilities should be required to propose tangible provisions post-wildfire for customer support and outreach, financial assistance, and collaboration that are targeted to help small business customers, especially in small business health providers and hard-to-reach communities that rely on small commercial centers to remain operational in times of emergency.

Small business customers are uniquely vulnerable to wildfire damage, as most do not have the financial resources needed to bounce back after a catastrophic wildfire. Small businesses tend to operate with strict budgets with limited profit margins.¹⁶ As such, even minimal interruptions to business operations can deter business owners from participation in programs that require the business to close or modify its hours, such as energy efficiency.¹⁷ This

¹⁴ D.18-05-041, at 42-43.

¹⁵ See R.18-12-005.

¹⁶ Seth Nowak, Big Opportunities for Small Business: Successful Practices of Utility Small Commercial Energy Efficiency Programs, American Council for an Energy-Efficient Economy (Nov. 2016) (“Big Opportunities for Small Business”), at 7.

¹⁷ Big Opportunities for Small Business, at 7.

indicates that a prolonged closure due to wildfire damage may pose an unsurmountable obstacle for small businesses if they are not provided with financial support.

SBUA strongly supports SCE's proposal to proactively identify and verify small businesses that were damaged or destroyed by a fire, to flag these business accounts as eligible for disaster relief, and to have a customer support representative outreach to all customers on the list of impacted customers.¹⁸ The utilities should carry the burden of proactively identifying accounts eligible for relief and of outreaching to these customers because after a catastrophic wildfire customers may not prioritize contacting their utility service provider, rightfully so, or may not even be aware that they are eligible for financial support. SCE commendably proposes to have customer service representatives contact customers using the customer's previously designated preferred method of communication.¹⁹ And we recommend that all of the utilities be required to include like proposals for small business customers.

Although the Mitigation Plans propose programs that will provide financial support to low-income residential customers, comparable plans to assist small business customers are missing from the plans of PacifiCorp and Bear Valley. Many small businesses are locally owned so the owners may have both their home and business damaged by a wildfire, exacerbating the financial impact a fire may have on them. Therefore, the Mitigation Plans should propose financial support programs tailored to small business customers. SBUA suggests using SCE's Plan as a model for the minimal requirements the utilities should have to comply with.²⁰

Excepting SCE, another global concern with all of the Mitigation Plans and their outreach proposals is that customers may not have selected a preferred method of communication prior to

¹⁸ SCE Plan, at 82-83.

¹⁹ SCE Plan, at 83.

²⁰ SCE Plan, at 82-85.

the catastrophic wildfire. To improve these outreach programs, the utilities should follow SCE's procedure for notifying critical care customers of power outages. For these customers, SCE provides outage notifications using the customer's primary and alternative preferred methods of communication, and, in the event the customer cannot be reached, SCE attempts to reach the customer via other methods including sending a field representative to attempt to physically contact the customer.²¹ Likewise, to provide customers with information on disaster relief they are eligible for, all of the other utilities should include in their Mitigation Plans a proposal for exhausting every method of communication if they cannot reach a customer using the customer's preferred communication method.

In the event that a utility does not have the capacity to serve all customers impacted by a fire at once, utilities should prioritize serving customers who meet the definition of hard-to-reach customers adopted by the Commission in D.18-05-041.²² Finally, SBUA recommends that the Mitigation Plans include surveys within the small business communities to better understand the needs of these customers.

V. EMERGENCY PREPAREDNESS, OUTREACH, AND RESPONSE

The Wildfire Plans' procedure for preparing, reaching out to, and responding to small business customers needs greater attention and improvement. SB 901 requires the utilities to develop procedures for notifying a customer who may be impacted by de-energization.²³ The bill does not provide guidance on the specific notification procedures the utilities should develop, but the Plans should outline notification procedures for small businesses that provide essential services. As mentioned above, small businesses play a particularly important role in more remote

²¹ SCE Plan, at 67.

²² D.18-05-041 (May 31, 2018), at 42-43.

²³ 8386(c)(7).

locations and urban neighborhoods that do not have access to commercial centers other than local businesses. As evidenced in other utility-administered programs, small businesses need tailored outreach activities.

Small businesses have generally had low participation rates in utility administered programs due to outreach programs being general in nature and not tailored to meet the unique marketing, education, and outreach needs of this customer group. For example, small businesses have had low participation in energy efficiency and transportation electrification programs due to not being aware of the potential benefits of programs.²⁴ In addition, “[g]eneric messages may not be perceived as relevant[,]” necessitating the need to personalize outreach efforts.²⁵ Therefore, SBUA recommends that the Commission require all of the utilities to specify how the utility will engage in notification activities that are tailored to small business customers and to report on challenges they observe.

In particular, SBUA recommends prioritizing two groups for emergency preparedness, outreach, and response: (1) small health service providers including primary care physicians, emergency rooms, and veterinarian services and (2) critical small commercial centers. These categories of small businesses are particularly important during wildfire emergencies for the communities that may otherwise have no access to essential goods and services. Yet, the Plans do not analyze or make proposals to address the needs of this customer base. Each of the utilities should examine and consider the importance of various small business customers and how to better prepare them for and respond to wildfire emergencies.

²⁴ Big Opportunities for Small Business, at 1; *see also* Milken Institute, Financing Models to Expand Access to Electric Vehicles in California, Financial Innovations Lab Report (July 2017).

²⁵ Big Opportunities for Small Business, at v.

VI. PERFORMANCE METRICS AND MONITORING

a. Reporting Requirements

Mitigation metrics should be tied to performance outcomes to measure how well the Mitigation Plans are working. The performance metrics in turn should be broken down by customer size, including residential, larger commercial, and small commercial customers. Breaking performance metrics down by customer size is the best way to ensure that the Mitigation Plans are working effectively among small, medium, and large customers. Specifically, the utilities should examine whether their communications and plans drove awareness for small business customers and provided any necessary education and assistance for what to do during a wildfire emergency. SBUA further recommends that the Commission require the metrics to be measured in the form of a scorecard and that the effectiveness of the Plans for small businesses and hard-to-reach customers be included in this scorecard.

Likewise, monitoring and reporting should include elements that are specific to customer size. The utilities, for example, should also keep track of and report on the number of small businesses damaged or destroyed by wildfires. This will help determine the need to increase funding for notification procedures, customer support after a wildfire, and other programs that benefit small business customers.

In addition, SB 901 requires the utilities to make public an “accounting of the responsibilities of persons responsible for executing the plan.”²⁶ Although the Plans include information on the positions, Plans should include additional information including the names of the specific people holding those positions as well as providing their contact information. PG&E’s Plan lists the positions but does not include the name or contact information for the

²⁶ 8386(c)(1)

people holding these titles; Bear Valley does not give the name of the director who administers the plan; PacifiCorp does not disclose the name or contact information of the directors; SDG&E's Plan needs to disclose the contact information of people holding the various titles.²⁷ Although a strict reading of subdivision (c)(1) suggests that only the titles and descriptions of duties need to be disclosed in the Plans, the utilities should disclose the names and contact information of people holding these positions so that the Commission and the public may be aware of who to address correspondence to in the event of a future issue.

VII. RECOMMENDATIONS FOR FUTURE WMPS

According to Senate Bill 901, the approved Plans will remain in effect until the Commission approves subsequent plans.²⁸ The Commission should require the utilities to file subsequent plans through the application process in a consolidated proceeding. Such a process will allow for intervenor testimony and evidentiary hearings, which this Rulemaking could not include in the schedule due to the need to approve the Mitigation Plans prior to the 2019-2020 wildfire season.

VIII. OTHER ISSUES

a. Defining Vulnerable Customers

SB 901 does not provide a definition for "vulnerable customers." The utilities have taken the position that this should refer only to customers with medical conditions.²⁹ However, this phrase should not be limited to medical baseline customers. The phrase "vulnerable customers" should refer to all hard-to-reach customers as defined in D.18-05-041.³⁰ As noted in that

²⁷ See Mitigation Plans of PG&E Plan, Bear Valley Electric, PacifiCorp, and SDG&E Plan.

²⁸ 8386(e).

²⁹ PacifiCorp, at 66; *see also* SDG&E, at 64 (explaining that medical baseline customers receive additional outreach).

³⁰ SBUA recommends using the definition adopted in D.18-05-041, which is referenced in these comments.

decision, customers meeting this definition are underserved and difficult to reach.³¹ This means that unless the utilities design programs to meet these customers' needs and proactively outreach to them, these customers are unlikely to benefit from the programs. In the context of wildfires, these customers are vulnerable because they may not be aware of planned power shutoffs, post-fire relief, and other programs. Therefore, hard-to-reach customers should be considered vulnerable customers.

In the alternative, given the time constraints for approval of the Plans, the Commission should specify that approval of the Plans does not approve of a specific definition contained in the Plans but that this term will be defined in the de-energization proceeding as is proposed by the Scoping Memo in that proceeding.³²

b. Power Restoration Priorities

The Commission should specify areas and customer types that will be a priority for power restoration. Businesses that provide health services, groceries, and supplies (particularly if they are the only stores supplying a local community) should be prioritized for power restoration. This will ensure that all customers, regardless of geographic location, have access to essential goods and services.

IX. CONCLUSION


SBUA thanks the Commission for the opportunity to comment on the Mitigation Plans and looks forward to engaging with stakeholders and Commission staff in the other proceedings focused on SB 901 implementation.

³¹ D.18-05-041, at 44-45.

³² R.18-12-005, at 4.

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