FILED
06/13/19
04:59 PM

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 (Filed January 10, 2019)

WILD TREE FOUNDATION
COMMENTS ON PROPOSED DECISION

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Dated: June 13, 2019

SUMMARY OF RECOMMENDED CHANGES

1. A decision in this proceeding at this time should be limited to these points: 1.) application of a stress test under section 451.2 to an individual IOU requires the filing of an application, 2.) section 451.2 only applies to fires caused by IOUs during 2017, and 3.) the filing of bankruptcy post-2017 makes an IOU ineligible to utilize a section 451.2 stress test.
2. The language regarding the applicability of section 451.2 stress test to an IOU that has filed for bankruptcy be clarified to state, without a doubt, that any IOU that filed for bankruptcy following the 2017 wildfires is ineligible for application of the stress test at any time, including after any bankruptcy proceedings are concluded.
3. The decision should defer approval of stress test methodology to a full administrative hearing opened if and when SCE files an application for recovery of costs for the 2017 Fire it caused.
4. If the PD Stress Test methodology is approved, it should be modified to prohibit use for IOUs with junk credit rating, should include a mandatory ratepayer protection measure in the form of a loan, and should include disallowance for imprudently incurred costs.

TABLE OF AUTHORITIES

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Pursuant to the Rule 13.4 of the Commission Rules of Practice and Procedure, Wild Tree Foundation ("Wild Tree") submits the following comments on the Proposed Decision Adopting Criteria and Methodology for Wildfire Cost Recovery Pursuant to Public Utilities Code Section 451.2 ("Proposed Decision" or "PD".)

Wild Tree maintains that there is no good reason for the Commission to issue a decision that determines a stress test methodology for implementation of Public Utilities Code section 451.2[1] prior to the filing of an application for cost recovery. Section 451.2 does not direct the Commission to pre-judge any application for rate recovery by opening a rulemaking proceeding to create a binding methodology to be applied to future applications for recovery of 2017 fires costs. The PD conclusions are correct that section 451.2 requires the filing of an application for cost recovery before a stress test amount will be calculated for any individual investor owned

[1] Hereinafter, all citations are to the Public Utilities Code unless otherwise noted.

utilities ("IOU") and that the stress test is limited to the 2017 fire liabilities. The PD is also correct that IOUs that have filed for bankruptcy are ineligible to utilize the stress test. A decision in this proceeding at this time should be limited to these points: 1.) application of a stress test under section 451.2 to an individual IOU requires the filing of an application, 2.) section 451.2 only applies to fires caused by IOUs during 2017 ("2017 Fires"), and 3.) the filing of bankruptcy post-2017 makes an IOU ineligible to utilize a section 451.2 stress test.

Unfortunately, the PD goes far beyond establishing these principles and proposes a methodology for the implementation of section 451.2 in *Stress Test Methodology (May 24, 2019)* ("PD Stress Test"). The PD Stress Test is vague, incomplete, inadequate, and infeasible. The PD Stress Test completely ignores the statutory mandate that cost allocation for the 2017 Fires be driven by minimizing ratepayer harm. Instead it proposes a scheme intended to reduce IOU and IOU investor harm by building a test around IOU credit rating and on self-assessment and other information voluntarily provided by the applicant IOU. The PD Stress Test includes no mandatory ratepayer protection measures, only the requirement that some kind of measure be proposed by the applicant IOU. No grounds are provided justifying the regulatory adjustment percentages, inclusion of one year of dividend payments as excess cash is insufficient, and IOU imprudent spending and other critical issues are not addressed in the PD.

The Commission should not approve a methodology that is the result of a misguided desire to rush a decision. Ultimately, if the stress test is not applied to PG&E, which it should not be as a result of PG&E voluntarily filing for bankruptcy, it will be applicable only to SCE for the Thomas Fires. It is hard to understand, then, what benefit the issuance of a PD Stress Test provides at this point. On the flip side, Commission approval of such an inadequate stress test could have long-lasting, harmful consequences for ratepayers. For example, AB 235 would

extend stress test protection to the IOUs for any IOU-caused fires post-2019. If this bill were to become law, the stress test approved in this decision could become the methodology for all future recovery of fire liabilities incurred as a result of an IOU acting imprudently. This approach was invited in the Scoping Memo: "To the extent the Legislature would like the methodology adopted in this proceeding to apply to fires, which ignited in years other than 2017, it may provide that instruction in legislation."[2] The PD Stress Test could be used as the blueprint for future bail-outs of the for-profit IOUs whom, by their negligence and prioritization of profits over safety, cause fires. The Commission should not act in such haste so as to approve a half-baked methodology that fails to meet the legislative intent of protecting ratepayers, especially where the methodology may become the basis for future IOU bailouts.

This proceeding has been administered in an autocratic fashion rather than the deliberate, collaborative, evidence-based process that it should be. The parties were presented with a Staff Stress Test Proposal, were provided less than three weeks to provide comments on the proposal (despite a motion for more time), and had just one week to provide reply comments. Parties begged for more time but, despite the acknowledgment in the PD that "the Staff Proposal and the thoughtful comments from the broad range of parties demonstrate, implementing the legislative direction in 451.2 is a complex and dynamic exercise,"[3] the PD concludes that "the Commission is not persuaded by parties' claims that taking additional time will have any impact on its determination of the criteria and methodology."[4]

[2] R.19-01-006, *Scoping Memo* (March 29, 2019) at p. 6.
[3] R.19-01-006, *Proposed Decision Adopting Criteria and Methodology for Wildfire Cost Recovery Pursuant to Public Utilities Code Section 451.2* (May 24, 2019) at p.45 ("PD").
[4] *Id.* at p. 48.

The short time period for reply comments was especially troublesome as the many parties to the proceeding raised a wide variety of concerns and proposals that called for a response. The most obvious flaw in the PD Stress Test that seems to be due to a lack of time is that it includes no mandatory ratepayer protection measures. For example, TURN proposed a ratepayer protection measure that would effectively grant an applicant IOU a loan to be paid back to ratepayer. The concept has merit but there was not enough time for other parties to fully vet the specific proposal. The concept is not a part of the PD Stress Test and it is not analyzed in the PD. Party positions are generally well documented in the PD but other critical issues are also left entirely unaddressed. For example, the infeasibility of the proposed ratepayer protection measure for the issuance of warrants, need to disallow imprudently incurred costs, the reasonableness of having the stress test rely so heavily on the credit agency ratings, and how the finances of IOUs that are subsidiaries will be evaluated.

The Commission should issue a decision that establishes the principals listed above but defers the actual development of a stress test methodology to a full administrative hearing process following an application for cost recovery, as the Legislature intended. If the Commission persists with utilizing this proceeding to create a methodology for IOU bail-outs, the Commission should commit the resources and time necessary to do it right with a fully developed record and meaningful public participation. A methodology developed in accordance with the Public Utilities Code would have avoidance of ratepayer harm as the primary driver, would include a mandatory ratepayer protection measure in the form of a loan, and would include disallowance for imprudently incurred costs.

COMMENTS

A. The PD Correctly Concludes that Section 451.2 Does not Apply to IOUs that have Filed for Bankruptcy

Wild Tree agrees with PD conclusion that IOUs that have filed for bankruptcy are ineligible from utilizing the stress test but 1.) it is unclear if PG&E would be eligible for application of the stress test post-bankruptcy and 2.) if the stress test is to be based upon credit rating, the prohibition should extend to utilities with below investment grade credit rating. Wild Tree recommends that the language regarding the applicability of section 451.2 stress test to an IOU that has filed for bankruptcy be clarified to state, without a doubt, that any IOU that filed for bankruptcy following the 2017 wildfires is ineligible for application of the stress test at any time, including after any bankruptcy proceedings are concluded.

Wild Tree does not support the use of credit ratings as the foundation for the stress test but, if this metric is to be used as "the primary driver"[5] of the test, IOUs with below investment grade credit rating should also not be eligible for stress test application. It is acknowledged in the PD Stress Test that, "If a utility has already been downgraded to a junk credit rating, the Stress Test may not be the right tool to prevent ratepayer harm and may not be sufficient to prevent material impacts to the utility's ability to provide adequate and safe service"[6] and "if a utility is already at the minimum credit rating that is investment grade, or if it has fallen below investment grade, the first two components of the Stress Test model may yield a Customer Harm

[5] R.19-01-006, *Stress Test Methodology (May 24, 2019)* at p. 4 ("PD Stress Test").
[6] PD Stress Test at p. 13.

Threshold that is very low or even zero."[7] It seems clear then, that the use of the PD Stress Test for IOU with junk credit rating would be in violation of section 451.2.

Regardless, the PD Stress Test inexplicably allows the use of the stress test for an IOU with a junk credit rating if it can "demonstrate an ability (pathway) to achieving an investment grade credit rating."[8] This "pathway" is ill-defined, meriting only a vague, one sentence description: "A demonstrated ability to achieve a minimum investment grade credit rating could include, for example, the allowance of wildfire related liabilities for recoveries in rates, equity issuances, asset sales, or other forms of capital infusions."[9] This leaves far too much to representations made by the applicant IOU with no protection against an inherent conflict of interest. The PD provides no explanation as to how this "pathway" will address the violations that will occur should the stress test be applied to IOU with a junk credit rating.

B. The Decision Should be Limited to Establishing Principles Regarding the Implementation of Section 451.2

A rulemaking to establish a methodology for determining the ratepayer funded bail-out amounts for costs associated with the 2017 Fires is neither necessary nor appropriate. SB 901, in particular section 451.2, does not require such a rulemaking. If the Commission reaches a Decision in this proceeding, it should be limited to establishing the principles described above regarding stress test application and that a methodology for implementing section 451.2 will be determined if and when SCE files an application for recovery of costs for the 2017 Fire it caused. It would be poor practice for the Commission to attempt, in this proceeding, to bind the future

[7] *Id*. at pp. 12-13.
[8] PD Stress Test at p. 13.
[9] *Ibid.*

Commission's hands as to how it interprets and applies section 451.2 in a future application for cost recovery for the 2017 Fires.

In SB901 the Legislature provided for a one-time, get out of jail free card for PG&E and SCE for the costs of the catastrophic 2017 Fires. The Legislature did not amend section 451, which establishes the bedrock principal in California utility regulation that "Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful."[10] Section 451.2 lays out a process that begins with section 451 reasonableness review.[11] Recovery for costs found to be unjust and unreasonable will be disallowed[12] and the Commission will allocate costs by considering "the electrical corporation's financial status and determine the maximum amount the corporation can pay without harming ratepayers or materially impacting its ability to provide adequate and safe service."[13]

Nowhere in the Public Utilities Code's clearly delineated process does the Legislature direct the Commission to pre-judge any applications for rate recovery by opening a rulemaking proceeding to create a binding methodology to be applied to future applications for recovery of 2017 Fires costs. The Code is clear, in black letter law, that a review of costs is to happen "when allocating costs" triggered by an application for rate recovery. The Scoping Memo is correct that "Pub. Util. Code § 451.2(a) describes how the Commission will review applications by electrical corporations that request recovery of costs and expenses from wildfires in 2017."[14] But, there is

[10] Pub. Util. Code, § 451.
[11] "In an application by an electrical corporation to recover costs and expenses arising from, or incurred as a result of, a catastrophic wildfire with an ignition date in the 2017 calendar year, the commission shall determine whether those costs and expenses are just and reasonable in accordance with Section 451." (Pub. Util. Code, § 451.2, subd. (a).)
[12] Pub. Util. Code, §§ 451, 451.2, subd. (b).
[13] Pub. Util. Code, § 451.2, subd. (b).
[14] R.19-01-006, *Assigned Commissioner's Scoping Memo and Ruling* (March 29, 2019) at p. 4.

no application here for the Commission to review and so the Commission should not yet be acting.

This proceeding is also in conflict with the Commission's own definition of rulemaking. Commission Rules of Practice and Procedure, Rule 6.1 states "The Commission may at any time institute rulemaking proceedings on its own motion (a) to adopt, repeal, or amend rules, regulations, and guidelines for a class of public utilities or of other regulated entities; (b) to amend the Commission's Rules of Practice and Procedure; or (c) to modify prior Commission decisions which were adopted by rulemaking." None of these situations apply here – the Commission has not set out to make a rule for a class of utility, amend a rule, or modify a decision. Instead, the Commission appears to be seeking to pre-judge the outcome of the second phases of a future application for cost recovery by a single IOU - SCE. Action by the Commission in this proceeding, beyond establishing basic principles regarding the application of section 451.2 stress test, is premature and the Commission risks establishing bad precedent as applicable law are certain to change in the near future. The Commission need not and should not act now.

C. The PD Stress Test is Incomplete and Inadequate

If the Commission is going to approve a stress test methodology it should be fully formed and fully vetted, have prevention of ratepayer harm as the primary driver, and should include a mandatory ratepayer protection measure in the form of a loan. The PD Stress Test Proposal is incomplete and inadequate, the result of a process devoid of any record evidence or meaningful stakeholder input. There has been no explanation offered for why this process has been so rushed. Unlike the statutorily mandated section 8386 mitigation plan deadlines, the Legislature

did not establish any deadline by which review of 2017 Fires cost allocation must be complete and, as explained above, the Code lays out a process whereby cost allocation would occur upon an application.

If the Commission is going to approve a stress test methodology, it must approve an actual methodology not just a concept lacking the very basics, including a definition of customer harm or mandatory ratepayer protection measure. The majority of the proposal is a recitation of the methods used by Moody's and S&P Global to set credit ratings. What remains is vague, undefined, and infeasible. Staff has been unable to answer many basic questions about the proposal and stated that its stress test proposal is "very much conceptual." While Staff has stated that the "conceptual framework" is not flushed out, no information has been provided on how and when this would actually occur and the PD Stress Test actually provides less detail and requirements than the Staff's previous version.

This rushed process – absent evidentiary hearings and only one two-hour workshop and one-hour phone call not made part of the record - has resulted in an incomplete and inadequate methodology. The issues include, but are not limited to, a proposed regulatory adjustment range that is arbitrary and for which the PD provides no justification; lack of a mandatory ratepayer protection measure and a proposed measure based on warrants for which the PD does not address compelling argument regarding its infeasibility; inadequate treatment of dividends; and no discussion of disallowance for imprudent spending.

The PD also fails to provide a justification for focusing on IOU harm, rather than ratepayer harm. As required by section 451.2, the exceptional process to permit rate recovery for the 2017 Fires even where a rate increase is found to be unjust and unreasonable must begin and end with the ratepayers. The standard set out in section 451.2 properly focuses on harm to

ratepayers, safety, and reliability and the Commission needs to begin its analysis by asking how much can rates be increased before ratepayers have been harmed by unaffordable bills, by IOUs that are disincentivized to prioritize safety over profits, and by the simple unjustness of victims being forced to pay for their own damages in the form of a corporate bail-out.

Instead, the PD Stress Test Proposal begins with the flawed premise that an IOU's credit rating is the critical factor in implementing section 451.2. The use of credit rating as the main metric of an IOU's ability to provide safe and adequate service is contrary to section 451.2 and is illogical. If this were a true measure of a utility's ability to provide safe and adequate service and prevent ratepayer harm, Californians, especially those living in PG&E territory, would be facing inadequate and unsafe service, given the fact that PG&E has a junk rating, SCE is clinging to the lowest rung of investment grade ratings, and SDG&E is just one step above SCE.[15]

Of course, Californians remain at risk from utility-caused disasters but the credit ratings don't change this one way or another. Credit ratings have been demonstrated to be irrelevant to the IOU's ability to actually provide safe and adequate services; in July 2017, just a few months prior to the Napa-Sonoma Fires, Moody's upgraded PG&E rating to A3[16], well above minimum investment grade rating. During the Thomas Fires, SCE's Moody's rating was stable at A2.[17]

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[15] See Moody's website, https://www.moodys.com, as of April 22, 2019; S&P Global website, https://www.standardandpoors.com, as of April 22, 2019 (PG&E is no longer ranked by Moody's following D-PD rating, S&P Global rates PG&E as D; SCE Moody's rating is Baa2, S&P Global rating BBB; SDG&E Moody's rating is Baa1, S&P Global rating BBB+.)

[16] Moody's website, *Rating Action: Moody's upgrades PG&E Corporation and Pacific Gas & Electric; outlook revised to stable* (July 25, 2017), available at: https://www.moodys.com/research/Moodys-upgrades-PGE-Corporation-and-Pacific-Gas-Electric-outlook-revised--PR_369999.

[17] Moody's website, https://www.moodys.com/credit-ratings/Southern-California-Edison-Company-credit-rating-693000, as of April 22, 2019.

The Commission should not be in the business of making decisions with the purpose of propping up the credit rating of the IOUs and the stress test should not be based upon IOU credit ratings as this is not a measure of ratepayer harm. Investment grade rating is immaterial to the utility's ability to provide safe and adequate service. PG&E and SCE both had relatively high investment grade ratings when the Thomas and Napa-Sonoma Fires broke out and this, of course, protected no one. PG&E currently has a junk rating and ratepayers do not face any greater threat to safety or less reliability then they did on the day prior to the ratings downgrade.

1. Stress Test Must Be Applied To IOU Parent Companies

The PD does not address how the stress test will be applied to utilities that operate as subsidiaries of larger companies. The review of an electrical corporation's financial status must be undertaken based upon the finances of the parent company, not subsidiaries. In the case of SCE, Edison International has vastly greater resources than SCE and it should be these resources that are considered in determining if there will be a ratepayer funded bailout for the Thomas Fire.

2. The PD Stress Test Proposal Lacks Needed Checks and Balances

The PD Stress Test relies entirely upon information voluntarily provided by the IOU that is seeking ratepayer recovery and on information from credit rating agencies. The inherent conflict of interest in this fox guarding the henhouse set-up in unacceptable. The PD actually increased the reliance upon information provided by the IOUs by not providing for any mandatory ratepayer protection measures, instead allowing an IOU applicant to propose its own measures. The stress test should not be reliant upon any self-assessments from the IOUs but instead be based on verifiable facts and analysis by independent experts.

The PD states, "While Wild Tree is concerned about relying on utility 'self assessments' we agree with POC that the normal process of ligation before the Commission will produce an evidentiary record upon which we can make full and informed decisions."[18] POC does not make any argument that counter's Wild Tree's concern regarding the reliance on IOU self-assessment and proposals. Wild Tree agrees with POC that "the Commission cannot accept the validity of data presented by a utility in an application for a bailout without the benefit of an evidentiary hearing."[19] Evidentiary hearings are necessary for any applications made under section 451.2, but evidentiary hearing will not address the fact that, per the PD Stress Test, an applicant IOU will define the boundaries of both the inputs and outcome of an application under section 451.2. For example, the PD Stress Test allows that "a utility applying for the Stress Test may indicate its own Ratepayer Protection Measures that offer equivalent or greater protections to ratepayers when compared to the equity warrants concept."[20] Although this section is entitled "Ratepayer Protection Option 2: Proposal by Applicant/Intervenors" this does not allow for proposal by intervenors or Staff, only the applicant.

The PD states that "we believe explicit proposals for ratepayer protections are needed to achieve the Legislative directive of determining the maximum amount an electrical corporation can pay without materially impacting its ability to provide adequate and safe service OR harming ratepayers."[21] Wild Tree wholeheartedly agrees with this statement. It is difficult to understand why, given this position, the PD proposes no explicit, mandatory ratepayer protections, instead leaving this entirely up to the applicant IOUs. Any stress test methodology must include

[18] PD at p. 49.
[19] R.19-01-006, *POC Staff Proposal Comments* (April 24, 2019) at p. 14.
[20] PD Stress Test at p. 15.
[21] PD at pp. 45-46.

mandatory ratepayer protection measures, not just a vague requirement that applicant IOU propose some sort of ratepayer protection measure.

The proposed regulatory adjustment scheme is also entirely dependent upon IOU's self-assessment. The PD Stress Test Proposal explains:

> The utility must also present its assessment of whether it could feasibly raise additional equity capital based on observed equity market transactions. If the utility identifies sources it can reasonably access that are ratepayer neutral over time and will enable the utility to reach or maintain target minimum credit ratings, then it must identify those amounts within its proposed Customer Harm Threshold.[22]

This provides no protection whatsoever against the inherent conflict of interest in an IOU providing its own assessment of its ability to absorb 2017 Fires costs when its ability to absorb such costs will control how much ratepayer recovery it will receive.

The PD Stress Test Proposal also relies indirectly on IOU assertions as the grounds for credit rating. The proposal relies upon credit ratings from Moody's and S&P Global, disinterested third party private entities that produce information for investors. Their motivation is not to protect ratepayers or to assist government bodies in making decisions. Further, their credit ratings rely on information provided by the IOUs and the IOUs are hardly disinterested in the resultant credit ratings. The PD does not address the problem with reliance on credit agencies in any fashion.

3. Any Methodology Must Include Disallowance for Imprudently Incurred Costs

The PD does not address imprudent IOU spending other than to count one year of dividends against excess cash calculations. Ratepayers will be harmed if their rates are raised

[22] PD Stress Test at p. 12.

due to imprudent IOU spending and so there must be specific disallowances for imprudent IOU spending. Disallowance for imprudent spending is not a part of the question of whether costs incurred as a result of the 2017 Fires were incurred reasonably. Disallowance for imprudent spending would account for the fact that the IOUs have a moral and legal imperative to spend every available dollar on attempting to make fire victims whole and in spending as much as possible on prevention and safety. A dollar spent imprudently is a dollar withheld from fire victims and not spent on safety. Shareholders should bear the burden for such imprudent spending, not fire victims or ratepayers.

Disallowance for imprudent spending should include, but not be limited to, issuance of dividends following the 2017 Fires; payment of employee bonuses, incentives, other extra-salary benefits, etc. following the 2017 Fires; payment of excess officer compensation and legal fees following the 2017 Fires; and costs of criminal defense and enforcement actions for deliberate, illegal actions such as falsifying records.

The PD proposes that dividends paid within a year of a IOU's application for cost recovery would be counted towards excess cash. This is an improvement over the Staff Stress Test Proposal but does not go nearly far enough. Disallowance should be increased by the amount of any dividends issued following the 2017 Fires. Dividends are paid when a company has excess earnings, and should not be paid when there are major unpaid liabilities due to damage caused by an IOU acting imprudently. As this Commission has previously explained:

> There are numerous possibilities . . . as to reasons why parties could challenge the reasonableness of PG&E's dividend practices or PG&E's rates. For example, it is possible that during the next nine years, PG&E may engage in unreasonable and imprudent conduct. Depending upon the size of the disallowance of costs, this could limit PG&E's ability to collect revenues from its ratepayers that would be necessary for dividend payments. PG&E also may be financially unable to perform all of its public service obligations under section 761 of the Public

Utilities Code if it paid unreasonably high dividends."[23]

The Commission should take a firm stance against the issuance of dividends and should increase the disallowance by the value of any dividends issued post 2017 Fires. Edison International and SCE have issued dividends every quarter since the Thomas Fire[24] and costs of dividends should be disallowed in any ratepayer recovery for SCE.

Excessive legal fees and employee and officer compensation should also increase the imprudent spending disallowance. The PD Stress Test's use of excess cash valuation is insufficient to address imprudent spending and will likely result in harm to ratepayers. For example, while the IOUs are not permitted to recover officer salary, bonus, benefits, and other compensation in rates pursuant to section 706, if recovery permitted under the stress test is increased because the IOU has decreased its excess cash by paying such compensation, ratepayers will be on the hook for the cost of officer compensation.

[23] D.03-12-035 at p. 56.
[24] NASDAQ, *Edison International Dividend Date & History,* https://www.nasdaq.com/symbol/eix/dividend-history, as of April 23, 2019; NASDAQ, *Southern California Edison Company Dividend Date & History*, https://www.nasdaq.com/symbol/sce.prc/dividend-history as of April 23, 2019.

CONCLUSION

A decision in this proceeding at this time should be limited to these points: 1.) application of a stress test under section 451.2 to an individual IOU requires the filing of an application, 2.) section 451.2 only applies to fires caused by IOUs during 2017, and 3.) the filing of bankruptcy post-2017 makes an IOU ineligible to utilize a section 451.2 stress test (with clarification that this applies during and after any post-2017 bankruptcy proceeding). The decision should defer approval of stress test methodology to a full administrative hearing opened if and when SCE files an application for recovery of costs for the 2017 Fire it caused. A stress test methodology crafted by the Commission has the potential to be limited in its impact – only applying to SCE for the Thomas Fire – or to have an extreme, long-standing impact on ratepayer if it is used as the basis for future IOU bailouts for fires costs resulting from imprudent IOU action. Either way, the Commission should take the time and devote the resources necessary to craft a methodology that will work to prevent ratepayer harm as required by the Public Utilities Code.

Respectfully submitted,

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Dated: June 13, 2019

APPENDIX: PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact

5-17. *Strike in entirety*

18. The Stress Test methodology in an application for cost recovery under Section 451.2 cannot be applied to a company that has a credit rating below investment grade at the time of a Stress Test application.

20. The Stress Test methodology in an application for cost recovery under Section 451.2 cannot be applied to a company that filed for bankruptcy post-2017.

Conclusions of Law

5, 7. *Strike in entirety*