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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.

Rulemaking.19-07-017

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules). It also sets forth questions relevant to the Commission's determination of the issues, and directs parties who wish to file comments and reply comments to follow the schedule set forth herein. Respondents to the Order Instituting Rulemaking are required to file comments and reply comments, which must include an officer verification identical in form to that required by Rule 1.11 of the Commission's Rules.

In setting forth the category, scope, and schedule of this proceeding I am mindful of the timing challenges identified by parties to this proceeding in prehearing conference (PHC) statements and at the PHC. Assembly Bill 1054 (Ch. 79, Stats. 2019) (AB 1054) was enacted as an urgency measure to address the dangers and devastation from catastrophic wildfires in California caused by electric utility infrastructure, including the increased costs to ratepayers resulting from electric utilities' exposure to financial liability. As required by statute, the Commission moved quickly after AB 1054 was enacted into law to open this

proceeding to consider providing ratepayer funding for a Wildfire Fund established to support the financial stability of California's electrical corporations, one element of the multi-faceted solution posed by the statute. Financially viable utilities are inherently necessary to provide safe and reliable service and reduce costs to ratepayers.¹

The scope of this proceeding is limited to the determination of whether the Commission should authorize ratepayer funding of the Wildfire Fund established in Public Utilities Code Sections 1701.8 and 3280 - 3297 via the continuation of an existing non-bypassable charge that would otherwise expire by the end of 2021.²

Establishment of the Wildfire Fund was informed by several significant statewide efforts to examine the growing risk of wildfires and solutions to mitigate that risk. This includes extensive hearings, reports, and debates conducted well over a year and a half, including Governor Newsom's Task Force report³ and the report by the Commission on Catastrophic Wildfire Cost and Recovery.⁴ The Commission may take official notice of the Task Force report and the final report of the Commission on Catastrophic Wildfire Cost and Recovery in its decision in this proceeding. This scoping memo and ruling alerts parties that such notice may be taken, and the parties are invited to comment on material contained in the reports.

¹ See Decision (D.) 19-06-027, Findings of Fact No. 4.

² All further references to Section are to Sections of the Public Utilities Code, unless otherwise specified.

³ Wildfires and Climate Change: California's Energy Future (April 12, 2019), available at: <https://www.gov.ca.gov/wp-content/uploads/2019/04/Wildfires-and-Climate-Change-California%E2%80%99s-Energy-Future.pdf>.

⁴ Final Report of the Commission on Catastrophic Wildfire Cost and Recovery (June 17, 2019), available at: <http://opr.ca.gov/wildfire/>.

1. Procedural Background

The Governor signed AB 1054 on July 12, 2019. The Commission issued an Order Instituting Rulemaking (OIR) at a special meeting on July 26, 2019, consistent with Section 3289, in response to legislative direction in AB 1054 to consider whether the Commission should exercise its authority under Section 701 to require certain electrical corporations to collect from ratepayers a non-bypassable charge to support California's new Wildfire Fund defined in Sections 1701.8 and 3280 et seq. The OIR contained a preliminary scope and schedule for the proceeding.

Notice of the Rulemaking appeared on the Commission's Daily Calendar on July 30, 2019. In the OIR the Commission preliminarily categorized this proceeding as ratesetting and determined hearings were not necessary.

Prehearing conference statements were received by Ruth Henricks on August 6, 2019 and by San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Wild Tree Foundation, Bear Valley Electric Service, a division of Golden State Water Company (Bear Valley), Liberty Utilities (CalPeco Electric) LLC (Liberty), Utility Consumers' Action Network (UCAN), PacifiCorp d/b/a Pacific Power (PacifiCorp), the Coalition of California Utility Employees, the Utility Reform Network (TURN), Energy Producers and Users Coalition (EPUC), Bioenergy Association of California, the California Public Advocates Office at the California Public Utilities Commission (Public Advocates), and Pacific Gas and Electric Company (PG&E) on August 7, 2019. A prehearing conference was held on August 8, 2019 to discuss the issues of law and fact, the need for hearing, and the proceeding schedule for resolving the matter.

After considering the OIR, the prehearing conference statements, and the discussion at the prehearing conference, I have determined the issues and schedule of the proceeding to be as set forth in this scoping memo and ruling.

2. Issues

This proceeding is limited in scope to the question of whether the Commission should authorize and order the collection of a non-bypassable charge from ratepayers of certain electrical corporations sufficient to provide the legislatively-determined revenue requirement for the ratepayer contributions to California's new Wildfire Fund. The legislative findings supporting AB 1054 explain the intent for the Wildfire Fund. Specifically, they illustrate how the fund is but one of several significant efforts to address the danger of devastating wildfires related to utility infrastructure, by ensuring California maintains financially healthy electric utilities and reducing costs to ratepayers of utility-caused catastrophic wildfires.

Parties generally agree that the five preliminary scoping issues included in the OIR are appropriate for this proceeding and some parties recommend additional issues.

TURN sought clarity that rate design will be handled in the same manner as the current Department of Water Resources (DWR) bond charge, and requested that the scope include issues related to the administration of the Wildfire Fund. While the OIR stated that rate design issues, including determination of the charges to be annually collected from ratepayers, will be addressed in a separate proceeding or a later phase of this proceeding,⁵ AB 1054 directs the Commission to collect the non-bypassable charge "in the same manner as" payments made historically under the DWR bond charge as specified

⁵ OIR at 3.

in Section 3289(a)(2). Accordingly this issue is added to the scope of the proceeding. Administration of the fund is not within the Commission's statutory authority and accordingly are not in scope.

PG&E raised issues around the applicability of the Wildfire Fund non-bypassable charge in the event PG&E is deemed ineligible to participate in the fund. The scope of issues is revised accordingly.

The issues to be determined are:

1. Whether it is appropriate for the Commission to exercise its statutory authority, including under Public Utilities Code Section 701, to require certain electrical corporations to impose a non-bypassable charge on ratepayers to support California's Wildfire Fund established by AB 1054, including payment of bonds issued pursuant to Section 80500 et seq. of the Water Code.
2. Whether imposition of the Wildfire Fund non-bypassable charge is just and reasonable.
3. The amount of the revenue requirement referred to in Section 3289 of the Public Utilities Code, including calculation of the amount and accounting for any impact of collections from regional electrical corporation ratepayers.
4. Whether to approve the Commission's Rate Agreement with the Department of Water Resources pursuant to Water Code Section 80524(b).
5. Whether it is reasonable to impose the Wildfire Fund non-bypassable charge on PG&E customers if PG&E is deemed ineligible to participate in the Wildfire Fund.
6. The Commission's process for determining and collecting the non-bypassable charge "in the same manner as" payments made

historically under the DWR bond charge as specified in Section 3289(a)(2).

7. Other issues relating to the Wildfire Fund non-bypassable charge that must be addressed before the Wildfire Fund non-bypassable charge may be imposed.

3. Directive to File Notices

As of the date of issuance of this Scoping Ruling SCE, SDG&E, and PG&E notified the Commission of their intent to participate in the fund.⁶ Further, PG&E filed a motion seeking approval to participate in the fund with the Northern District of California.⁷ Regional electrical corporations are not required by statute to give advance notice of their participation in the Wildfire Fund, however, all electrical corporations that choose to participate in the Wildfire Fund are required to make the initial, shareholder-funded contribution by September 10, 2019.⁸ By this ruling, the large electrical corporations (i.e., SCE, SDG&E, and PG&E) are directed to attach copies of their notices of intent to participate with comments served and filed in response to this scoping memo and ruling. Further, all electrical corporations are directed to serve and file a notice in this docket on September 11, 2019 indicating whether they have provided the required initial contribution to the Wildfire Fund or have elected not to participate in the Wildfire Fund.

Some regional electrical corporations (namely Bear Valley and Liberty) request to add an issue to the scope of the proceeding addressing the scenario

⁶ Available at: <https://www.cpuc.ca.gov/wildfires/>.

⁷ Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a) and 363 for an Order Authorizing Debtors to Participate in AB-1054 Wildfire Fund filed August 7, 2019, Northern District of California, Case No. 19-30088 (DM).

⁸ See Section 3292(b)(3) (initial contribution required 60 days after the effective date of statute).

where a regional electrical corporation may elect to participate in the Wildfire Fund after the Commission issues a decision in this proceeding. Given the statutory requirement that electrical corporations make their initial contribution on or before September 10, 2019 as a prerequisite to participate in the Wildfire Fund and the schedule set forth below for resolution of this proceeding, this scenario is moot and this issue is not specifically included in scope.

PacifiCorp in its prehearing conference statement stated that it would not participate in the Wildfire Fund and therefore requested that they should be removed as a respondent to the proceeding. The Commission will address PacifiCorp's request following its notice filing on September 11, 2019.

4. Questions for Party Comments

In order to facilitate the resolution of the issues identified as within the scope of the proceeding, the Commission requests that the parties include in their comments discussion of the following issues:

1. SCE's PHC statement seeks clarification of whether the Wildfire Fund bond charge revenue requirement should be based on the 2013-2018 average dollar amount collected per the revenue requirement, or the average amount of the adopted revenue requirements over that same period. While the OIR contains a revenue requirement estimate of \$880 million that is based on annual revenue requirement amounts adopted by the Commission from 2013-2018, SCE suggests that AB 1054 should be interpreted in such a way that the annual revenue requirement should be based on the average dollar amounts actually collected from 2013-2018 and therefore should be \$896 million.

EPUC also sought clarification on the context for the OIR's estimated annual revenue requirement. Parties are requested to address this issue in their comments, including proper statutory interpretation.

- Comments from PG&E, SCE, and SDG&E should include their respective “annual amount of collections” for year 2013, 2014, 2015, 2016, 2017 and 2018.
2. Whether it is just and reasonable for the Commission to impose the Wildfire Fund non-bypassable charge as defined by AB 1054, with an explanation as to why or why not.
 3. Explain the extent to which establishment of the Wildfire Fund non-bypassable charge as defined by AB 1054 will lower the electrical corporations’ cost of capital, enhance the electric corporations’ financial viability, and reduce costs to ratepayers.
 4. If the Commission determines that the imposition of the non-bypassable charge is just and reasonable, whether it is reasonable and appropriate for the Commission to direct an electrical corporation to impose and collect the charge on its ratepayers if the electrical corporation has not met the conditions specified in Section 3292(b)(1) to participate in the Wildfire Fund.
 5. Explain the extent to which Governor Newsom’s Task Force report and the report by the Commission on Catastrophic Wildfire Cost and Recovery bear on the Commission’s determination of whether it is just and reasonable to impose the Wildfire Fund non-bypassable charge as defined by AB 1054.

5. Need for Evidentiary Hearing

It is determined that an evidentiary hearing is not needed at this time.

6. Schedule

The following schedule is adopted here and may be modified by the administrative law judge as required to promote the efficient and fair resolution of the Rulemaking:

Action	Deadline
Opening Comments on Scoped Issues and Questions to Parties	August 29, 2019
Reply Comments on Scoped Issues and Questions to Parties [matter submitted]	September 6, 2019
Deadline for Filing Motions for Oral Argument	September 6, 2019
Proposed decision	September 24, 2019
Commission decision	October 24, 2019

The proceeding will stand submitted upon the filing of reply comments, unless the administrative law judge requires further argument. Based on this schedule, the proceeding will be resolved within 18 months as required by Public Utilities Code Section 1701.5. Parties should note that, due to the mandated expedited nature of this proceeding, the Commission may shorten the normal 30 day comment period for a proposed decision.

While some parties raised procedural and due process concerns due to the expedited nature of the OIR's preliminary schedule, the schedule set out in this scoping memo and ruling provides due process consistent with the legislative mandates requiring that "the commission shall adopt a decision regarding the imposition of the charge" within 90 days after the initiation of the rulemaking proceeding.⁹ Parties have not demonstrated in prehearing conference statements that there are any material issues of fact in dispute that are necessary to resolve in this proceeding, and this scoping memo and ruling determines that a hearing is not necessary at this time. Accordingly, the process and schedule required,

⁹ Section 3289(b).

while expedited, meet minimum due process requirements and the Commission may modify the schedule if needed.

In order to buttress the ability of the Commission to draw findings and conclusions from party comments in this proceeding, Respondents to the OIR are required to file comments and reply comments, and such comments must include an officer verification identical in form to that required by Rule 1.11 of the Commission's Rules. PacifiCorp is not excluded from this order.

7. Category of Proceeding/Ex Parte Restrictions

UCAN requested a ban on ex parte communications and ratesetting deliberative meetings. UCAN's rationale does not support deviating from the statutory rules governing ex parte communication and ratesetting deliberative meetings and so these rules shall apply throughout this proceeding.

This ruling confirms the Commission's preliminary determinations that this is a ratesetting proceeding.¹⁰ Accordingly, ex parte communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

8. Oral Argument

Motion for oral argument shall be made no later than the time for filing reply comments on the issues within scope (i.e., September 6, 2019).

9. Public Outreach

Pursuant to Public Utilities Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on

¹⁰ OIR at 3.

communities and businesses that subscribe to it and posted on the Commission's website.

In addition, the Commission served the OIR on the following entities:

- California Department of Water Resources;
- State Board of Forestry and Fire Protection (CAL FIRE);
- California Energy Commission;
- State Air Resources Control Board;
- California Office of Emergency Services;
- California Department of Fish and Wildlife;
- California Infrastructure and Economic Development Bank;
- California Office of Planning and Research;
- California Department of Parks and Recreation;
- California State Association of Counties;
- League of California Cities;
- California Native American Heritage Commission;
- California Municipal Utilities Association;
- Citizens Transmission LLC;
- Startrans IO, LLC;
- Trans Bay Cable LLC;
- Trans-Elect NTD Path 15, LLC; and
- NextEra Energy Transmission.

In addition, the Commission served the OIR on the following service lists:

- Rulemaking 15-02-012, Order Instituting Rulemaking to Consider the Annual Revenue Requirement Determination of the California Department of Water Resources and Related Issues;
- Rulemaking 15-05-006, Order Instituting Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety Regulations;

- Rulemaking 15-06-009, 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;
- Rulemaking 18-10-007, Order Instituting Rulemaking to Implement Electric Utility Wildfire Mitigation Plans Pursuant to Senate Bill 901 (2018);
- Rulemaking 18-12-005, Order Instituting Rulemaking to Examine Electric Utility De-Energization of Power Lines in Dangerous Conditions;
- Application 15-09-010, Application of San Diego Gas & Electric Company for Authorization to Recover Costs Related to the 2007 Southern California Wildfires Recorded in the Wildfire Expense Memorandum Account (WEMA);
- Application 16-06-013, Application of Pacific Gas and Electric Company to Revise Its Electric Marginal Costs, Revenue Allocation, and Rate Design. (U39M);
- Application 16-09-001, Application of Southern California Edison Company (U338E) For Authority To Increase Its Authorized Revenues For Electric Service In 2018, Among Other Things, And To Reflect That Increase In Rates;
- Application 17-06-030, Application of Southern California Edison Company (U338E) to Establish Marginal Costs, Allocate Revenues, and Design Rates;
- Application 17-07-011, Application of Pacific Gas and Electric Company for Authority to Establish the Wildfire Expense Memorandum Account;
- Application 17-10-007, Application of San Diego Gas & Electric Company (U902M) for Authority, Among Other Things, to Update its Electric and Gas Revenue Requirement and Base Rates Effective on January 1, 2019;

- Application 18-04-001, Application of Southern California Edison Company to Establish the Wildfire Expense Memorandum Account;
- Application 18-09-002, Application of Southern California Edison Company for Approval of Its Grid Safety and Resiliency Program;
- Investigation 18-11-006, Order Instituting Investigation into the November 2018 Submission of Southern California Edison Risk Assessment and Mitigation Phase;
- Application 18-12-009, Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2020;
- Application 19-03-002, Application of San Diego Gas & Electric Company (U902E) for Authority to Update Marginal Costs, Cost Allocation, and Electric Rate Design; and
- Application 08-12-021, Application of San Diego Gas & Electric Company for Review of its Proactive De-Energization Measures and Approval of Proposed Tariff Revisions.

10. Intervenor Compensation

Pursuant to Public Utilities Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by September 9, 2019, 30 days after the prehearing conference.

11. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public

Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

12. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the administrative law judge (ALJ).

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

13. Assignment of Proceeding

Clifford Rechtschaffen is the assigned commissioner and Patrick Doherty is the assigned ALJ for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is as described above.
2. The schedule of this proceeding is as set forth above.
3. Evidentiary hearing is not needed at this time.
4. The category of the proceeding is ratesetting.
5. Southern California Edison Company, San Diego Gas & Electric Company, Bear Valley Electric Service, a division of Golden State Water Company, Liberty Utilities (CalPeco Electric) LLC, PacifiCorp d/b/a Pacific Power, and Pacific Gas and Electric Company shall each serve and file comments and reply comments by the dates specified in this scoping memo and ruling, and such comments must be verified by an officer of the electrical corporation in a manner identical to that required by Rule 1.11 of the Commission's Rules of Practice and Procedure.

6. Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall each attach copies of their notices of intent to participate in the Wildfire Fund with their opening comments served and filed in response to this scoping memo and ruling.

7. Southern California Edison Company, San Diego Gas & Electric Company, Bear Valley Electric Service, a division of Golden State Water Company, Liberty Utilities (CalPeco Electric) LLC, PacifiCorp d/b/a Pacific Power, and Pacific Gas and Electric Company shall each serve and file a notice in this docket by September 11, 2019 indicating whether they have provided the required initial contribution to the Wildfire Fund or have elected not to participate in the Wildfire Fund.

Dated August 14, 2019, at San Francisco, California.

/s/ CLIFFORD RECHTSCHAFFEN
Clifford Rechtschaffen
Assigned Commissioner