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SAN FRANCISCO, CA 94102-3298

August 19, 2020

**Agenda ID #18714**  
**Ratesetting**

TO PARTIES OF RECORD IN RULEMAKING 19-07-017:

This is the proposed decision of Administrative Law Judge Patrick Doherty. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 24, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON  
Anne E. Simon  
Chief Administrative Law Judge

AES:avs

Attachment

Decision PROPOSED DECISION OF ALJ DOHERTY (Mailed 8/19/2020)**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.
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Rulemaking 19-07-017

**DECISION ADOPTING TIMING AND AMOUNT OF  
2020 WILDFIRE FUND NON-BYPASSABLE CHARGE****Summary**

This decision adopts an amount for the Wildfire Fund Non-Bypassable Charge for October through December 2020. This decision also adopts October 1, 2020 as the start date for the Wildfire Fund Non-Bypassable Charge.

This proceeding remains open.

**1. Background**

Assembly Bill (AB) 1054 (Ch. 79, Stats. 2019) (AB 1054) was enacted as an urgency measure to address increased risk of catastrophic wildfires in California, the electric utilities<sup>1</sup> exposure to financial liability, and ratepayer costs. A companion bill AB 111 (Ch. 81, Stats. 2019) was also enacted.

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<sup>1</sup> Throughout this decision, the terms "utility" and "electrical corporation" are used interchangeably. For the legislative intent of AB 1054 referred to here, *see* Stats. 2019, ch. 79, § 1(a).

The Governor signed AB 1054 on July 12, 2019. The Commission issued an Order Instituting Rulemaking (OIR) at a meeting on July 26, 2019, consistent with Public Utilities Code Section 3289, in response to legislative direction in AB 1054 to consider whether the Commission should exercise its authority to require certain electrical corporations to collect from ratepayers a non-bypassable charge to support California's new Wildfire Fund defined in Public Utilities Code 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.

After conducting regulatory proceedings in August 2019, the Commission issued a final decision on significant issues within the scope of this proceeding – Decision (D.) 19-10-056 – on October 24, 2019, in compliance with statutorily imposed deadlines. The procedural history of this proceeding is summarized in that decision. D.19-10-056 found that the imposition of a Wildfire Fund non-bypassable charge (Wildfire Fund NBC) contemplated by AB 1054 was just and reasonable, and kept this proceeding open. Subsequently, the Commission issued D.20-02-070 denying application for rehearing of D.19-10-056 on March 2, 2020.

On July 16, 2020, the Commission adopted D.20-07-014, which approved servicing orders between the large electrical corporations and the California Department of Water Resources (DWR). The servicing orders set terms and conditions allowing DWR and the large electrical corporations to cooperate in funding the Wildfire Fund using the Wildfire Fund NBC.

On July 3, 2020, DWR sent to the Commission a notice requesting that the Commission direct the large electrical corporations to begin charging eligible ratepayers a Wildfire Fund NBC in the amount of \$0.00580/kilowatt-hour (kWh) (or \$5.80/megawatt-hour (MWh)) in 2020, beginning October 1, 2020. This notice is known as the “90-day notice” as it was sent to the Commission approximately 90 days before the Wildfire Fund NBC is due to be charged for the first time. On July 31, 2020, DWR sent to the Commission a revision of the 90-day notice which is referred to as a “60-day notice.”

The assigned Administrative Law Judge (ALJ) issued an email ruling on July 3, 2020 attaching the 90-day notice and seeking party comment on the contents of the 90-day notice, including the proposed start date and amounts of the Wildfire Fund NBC for 2020. While the email ruling of July 3, 2020 also asked for party comment on a proposed amount for the 2021 Wildfire Fund NBC, that issue will be dealt with in a future Commission decision in this proceeding. On July 31, 2020 the assigned ALJ issued an email ruling attaching the 60-day notice and asked parties to consider the contents of the 60-day notice in their comments.

Party comments were served and filed on August 4, 2020 by Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and the Energy Producers and Users Coalition (EPUC). No party filed reply comments.

## **2. Issues Before the Commission**

As defined in the scoping memo, this proceeding may consider issues relating to the Wildfire Fund NBC that must be addressed before the Wildfire Fund NBC may be imposed. In order for the Wildfire Fund NBC to be imposed, a start date and an amount for the Wildfire Fund NBC must be established.

Therefore, as these issues must be addressed before the Wildfire Fund NBC may be imposed, the issues of the start date and amount of the Wildfire Fund NBC are properly within the scope of this proceeding.

### **3. Discussion**

The imposition of the Wildfire Fund NBC was found to be just and reasonable by the Commission in D.19-10-056.<sup>2</sup> That decision held that the Wildfire Fund NBC is to be collected on a dollar per kWh basis to ensure consistency with AB 1054,<sup>3</sup> and that the annual revenue requirement for the Wildfire Fund NBC is to be approximately \$902.4 million.<sup>4</sup>

D.19-10-056 also adopted a Rate Agreement between the Commission and DWR that bound the Commission to calculate, revise and impose from time to time the Wildfire Fund NBC sufficient to fund at all times the \$902.4 million annual revenue requirement, as well as a process for considering the start date for the Wildfire Fund NBC and the amount to be charged.

The process established by D.19-10-056 called for a 90-day notice to be submitted by DWR to the Commission before the imposition of the Wildfire Fund NBC for the first time, which would contain the following elements:

- Notice of the first month for imposition of the Wildfire Fund NBC.
- The pro-rated revenue requirement for the Wildfire Fund NBC for the year 2020.

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<sup>2</sup> D.19-10-056, COL 21.

<sup>3</sup> D.19-10-056 at 25.

<sup>4</sup> D.10-10-056, OP 3.

- The electricity sales forecast for all anticipated participating large electrical corporations for the months in 2020 when the Wildfire Fund NBC will be imposed.<sup>5</sup>
- DWR's calculation of the resulting Wildfire Fund NBC for customers subject to the Wildfire Fund NBC pursuant to D.19-10-056.

That decision also held that “[f]or every year after 2020, an annual Wildfire Fund NBC charge determination process shall be considered in future Commission decisions.”<sup>6</sup>

The 90-day notice transmitted by DWR on July 3, 2020 proposes that the Wildfire Fund NBC be collected on a per kWh basis beginning on October 1, 2020.<sup>7</sup>

DWR estimated the eligible kWh sales expected between October 1, 2020 and December 31, 2020 by using the results of data requests provided by the large electrical corporations on June 19, 2020. The responses to the data requests provide forecasted load at the customer meter for bundled load, direct access load, and community choice aggregation load with additional details for the load in these categories that would not be exempt from the Wildfire Fund NBC.<sup>8</sup>

DWR calculated the amount of the Wildfire Fund NBC in 2020 by using a “collection curve methodology.” DWR reported that it took the monthly estimated eligible kWh sales (or “non-exempt load”) for October, November, and December 2020 provided to DWR by the large electrical corporations, and then multiplied that figure by an assumed Wildfire Fund NBC amount to determine a

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<sup>5</sup> D.19-10-056 at 31-32.

<sup>6</sup> D.19-10-056 at 32.

<sup>7</sup> DWR 90-day notice at 1.

<sup>8</sup> DWR 90-day notice at 9.

forecasted remittance accrual. DWR reduced this accrual amount by a forecasted uncollectible factor. The resulting accrual amount was then projected to be received as cash 45 days later by DWR.<sup>9</sup>

To summarize, DWR estimated sales of 38,510,000,000 total non-exempt kWh across the three large electrical corporations for the period of October 1, 2020 through December 31, 2020.<sup>10</sup> Notably, in compliance with the statute, in 2020 the Wildfire Fund NBC does not collect an amount to fund a full year of the revenue requirement and it does not collect that amount from a full year of sales. The pro-rated Wildfire Fund NBC revenue requirement for a three month period 2020 is \$225.6 million, which is one quarter of the total revenue requirement.<sup>11</sup> Dividing \$225,600,000 by the sales forecast for the specific months of October, November and December (38,510,000,000 kWh) equals slightly above \$0.00580/kWh, and DWR's requested Wildfire Fund NBC amount is \$0.00580/kWh in 2020.<sup>12</sup>

In its 60-day notice, DWR restated its obligation under the Rate Agreement to notify the Commission each year by November 1st of the annual collections received by DWR with respect to the Wildfire Fund revenue requirement and the amount of excess or deficiency in collections above or below the revenue requirement. The 60-day notice also points out that under the terms of the Rate Agreement the Commission will undertake within 60 days to adjust the Wildfire Fund NBC in the subsequent year to reflect any excess or deficiency reported by

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<sup>9</sup> DWR 90-day notice at 9.

<sup>10</sup> DWR 60-day notice at 11.

<sup>11</sup> DWR 90-day notice at 8 (*i.e.*, 25% of \$902.4 million); California Water Code § 80524.

<sup>12</sup> DWR 90-day notice at 1.

DWR.<sup>13</sup> DWR estimates that the 2021 Wildfire Fund NBC will be comparable to the 2020 charge of \$0.00580/kWh and stated that it will notify the Commission of the 2021 charge by November 1, 2020.<sup>14</sup>

No party challenged the reasonableness of the sales forecasts or the total Wildfire Fund NBC revenue requirement to be collected. All parties commenting on this issue supported the imposition of the 2020 Wildfire Fund NBC on non-exempt customers of the large electrical corporations beginning October 1, 2020 in the amount of \$0.00580 per kWh. It is awkward to implement the collection of a partial revenue requirement in a three-month period, when the normal revenue requirement recovery period is 12 months. However, the Rate Agreement and AB 1054 provide annual adjustment mechanisms to ensure that DWR's revenue requirement is met. This decision holds that DWR's requested Wildfire Fund NBC amount is appropriate for the initial three-month revenue requirement period, and this decision holds that the figures used by DWR may be relied upon to calculate the Wildfire Fund NBC amount.

DWR's 90-day notice and 60-day notice provide notice of the first month for imposition of the Wildfire Fund NBC, the pro-rated revenue requirement for the Wildfire Fund NBC for the year 2020, and the electricity sales forecast for all anticipated participating large electrical corporations for the months in 2020 when the Wildfire Fund NBC will be imposed. DWR's 90-day and 60-day notices also include a calculation of the resulting Wildfire Fund NBC for customers subject to the Wildfire Fund NBC pursuant to D.19-10-056. Therefore, DWR's 90-day notice and 60-day notice comply with the holdings of D.19-10-056

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<sup>13</sup> DWR 60-day notice at 12.

<sup>14</sup> DWR 60-day notice at 11.



and provide the Commission with sufficient information to set the amount of the Wildfire Fund NBC for October 1, 2020 through December 31, 2020.

In light of the reasonableness of the information submitted by DWR, and the fact that it is not contested by any party, this decision finds that it is reasonable to set the amount of the Wildfire Fund NBC as \$0.00580/kWh for the period October 1, 2020 through December 31, 2020. The large electrical corporations shall collect this Wildfire Fund NBC amount, during the dates specified, from customers eligible to pay the Wildfire Fund NBC as defined in D.19-10-056.

Each of the large electrical corporations shall file a Tier 1 advice letter with the Commission's Energy Division implementing the 2020 Wildfire Fund NBC as defined by this decision no later than September 30, 2020.

#### **4. Comments on Proposed Decision**

The proposed decision of ALJ Doherty in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Rules. Comments were filed on \_\_\_\_\_ and reply comments were filed on \_\_\_\_\_.

#### **5. Assignment of Proceeding**

Clifford Rechtschaffen is the assigned Commissioner and Patrick Doherty is the assigned ALJ in this proceeding.

#### **Findings of Fact**

1. There will be estimated sales of 38,510,000,000 total non-exempt kWh across the three large electrical corporations for the period of October 1, 2020 through December 31, 2020.

2. The annual revenue requirement for the Wildfire Fund NBC is approximately \$902.4 million.

3. The pro-rated Wildfire Fund NBC revenue requirement for October, November, and December 2020 is \$225.6 million.

4. The figures used by DWR may be relied upon to calculate the Wildfire Fund NBC amount.

### **Conclusions of Law**

1. The imposition of the Wildfire Fund NBC was found to be just and reasonable by the Commission in D.19-10-056.

2. The Wildfire Fund NBC is to be collected on a dollar per kWh basis to ensure consistency with AB 1054.

3. DWR's 90-day notice and 60-day notice comply with the holdings of D.19-10-056 and provide the Commission with sufficient information to set the amount of the Wildfire Fund NBC for October 1, 2020 through December 31, 2020.

4. It is reasonable to set the amount of the Wildfire Fund NBC as \$0.00580/kWh for the period October 1, 2020 through December 31, 2020.

## **O R D E R**

### **IT IS ORDERED** that:

1. Southern California Edison Company shall collect the Wildfire Fund Non-Bypassable Charge from eligible customers as defined by Decision 19-10-056 from October 1, 2020 through December 31, 2020 in the amount of \$0.00580 per kilowatt-hour.

2. Southern California Edison Company shall file a Tier 1 advice letter with the Commission's Energy Division implementing the 2020 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than September 30, 2020.

3. San Diego Gas & Electric Company shall collect the Wildfire Fund Non-Bypassable Charge from eligible customers as defined by Decision 19-10-056 from October 1, 2020 through December 31, 2020 in the amount of \$0.00580 per kilowatt-hour.

4. San Diego Gas & Electric Company shall file a Tier 1 advice letter with the Commission's Energy Division implementing the 2020 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than September 30, 2020.

5. Pacific Gas and Electric Company shall collect the Wildfire Fund Non-Bypassable Charge from eligible customers as defined by Decision 19-10-056 from October 1, 2020 through December 31, 2020 in the amount of \$0.00580 per kilowatt-hour.

6. Pacific Gas and Electric Company shall file a Tier 1 advice letter with the Commission's Energy Division implementing the 2020 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than September 30, 2020.

7. Rulemaking 19-07-017 remains open.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.