

Decision _____

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).

R. _____

ORDER INSTITUTING RULEMAKING

Summary

The Commission opens this Order Instituting Rulemaking (OIR) to implement the provisions of Senate Bill 901¹ related to electric utility wildfire mitigation plans. This OIR will provide guidance on the form and content of the initial wildfire mitigation plans, provide a venue for review of the initial plans, and develop and refine the content of and process for review and implementation of wildfire mitigation plans to be filed in future years.

1. Background

Devastating wildfires have become a regular occurrence in California. Senate Bill (SB) 901 starkly recites a litany of statistics showing that wildfires have grown larger and more intense over the last several decades, resulting in loss of life and property, ecological devastation, increases in future fire risk, and

¹ Stats. 2018, Ch. 626.

significant greenhouse gas emissions. In response, SB 901 attempts to address these changes by directing a variety of actions in multiple contexts.²

New provisions of Public Utilities Code Section 8386, enacted as part of SB 901, require all California electric utilities to prepare and submit wildfire mitigation plans that describe the utilities' plans to prevent, combat and respond to wildfires affecting their service territories.³ This proceeding focuses on this requirement, and is the vehicle for the review and implementation of the electric utilities' wildfire mitigation plans.⁴

The Commission-jurisdictional electric corporations that are required to participate in this proceeding are Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Liberty Utilities/CalPeco Electric (Liberty), Bear Valley Electric Service, a division of Golden State Water Company (Bear Valley), and Pacific Power, a division of PacifiCorp (PacifiCorp). The Commission also invites the input of all stakeholders in guiding our approach. The Commission has long worked with the California Department of Forestry and Fire Protection (CAL FIRE) on improving wildfire mitigation, and based on that work and input from the parties, this rulemaking will include development of proposed guidance for what the electric utilities' wildfire mitigation plans should contain.

² Many of the actions directed to be taken by SB 901 are outside the purview of this Commission, such as changes to timber harvest plans, and are not addressed in this Order Instituting Rulemaking (OIR).

³ The required elements of the wildfire mitigation plans under Section 8386 are set forth in Appendix A.

⁴ SB 901 included other Commission-related provisions in addition to the wildfire mitigation plans. Those provisions will be addressed in other proceedings.

The provisions of SB 901 relating to the Commission's review and implementation of wildfire mitigation plans include short turnaround times for much of the necessary action by the Commission. Accordingly, at times this proceeding may move very quickly, with either shortened deadlines or fewer rounds of input. All parties should be prepared to act on short deadlines and be as cooperative and forthcoming as possible so we can meet the legislative mandate, consistent with due process.

This rulemaking is the first step in implementing one central aspect of the sweeping requirements of SB 901. Because of California's recent experience that the wildfire season is beginning sooner and ending later, the Commission determines that it is important to have the initial set of electric utility wildfire mitigation plans approved as close to the beginning of summer 2019 as possible. The Commission does not expect to achieve perfection in the short time that will be available for the initial review and implementation of the first wildfire mitigation plans, but will work with the parties to make the best use of that time to develop useful wildfire mitigation plans. The Commission will also use this proceeding to further refine its approach to the review and implementation of subsequent electric utility wildfire mitigation plans.

2. Preliminary Scoping Memo

The Commission will conduct this rulemaking in accordance with Article 6 of the Commission's Rules of Practice and Procedure, "Rulemaking."⁵ As required by Rule 7.1(d), this OIR includes a preliminary scoping memo as set

⁵ All references to "Rules" are to the Commission's Rules of Practice and Procedure unless otherwise indicated.

forth below, and preliminarily determines the category of this proceeding and the need for hearing.

2.1. Issues

The scope of this proceeding is limited to only the wildfire mitigation plans of California's electric utilities required by Section 8386 as modified by SB 901. The scope of this proceeding does not encompass the topic of wildfire mitigation measures generally, which is an issue much broader than the utilities' wildfire mitigation plans, and involves non-utility actors and other federal, state, and local decision makers. The scope of this proceeding also does not include utility recovery of costs related to wildfire mitigation plans, which Section 8386 requires be addressed in general rate case applications. The Commission's approval of wildfire mitigation plans in this proceeding is not a substitute – implicit or explicit – for the Commission's review in a general rate case whether the associated costs are just and reasonable.⁶ The Commission will not consider or approve explicit expenditures in wildfire mitigation plans in this proceeding; however, in evaluating the proposed plans the Commission may weigh the potential cost implications of measures proposed in the plans. This proceeding is accordingly categorized as ratesetting.

The focus of this proceeding will be on the language in Public Utilities Code Section 8386, as modified by SB 901. The full text of amended Section 8386 is set forth in Appendix A. Section 8386 contains a detailed list of the required contents of the plans, and the items to be included in the plans are all within the

⁶ "The commission shall consider whether the cost of implementing each electrical corporation's plan is just and reasonable in its general rate case application." (Section 8386(g).)

scope of the proceeding. In this proceeding the Commission will consider, among other things, how to interpret and apply the statute's list of required plan elements, as well as whether additional elements beyond those required in statute should be included in the wildfire mitigation plans. Parties will be asked for specific and detailed input on their interpretation of Section 8386, including their views on the meaning of the provisions listed for inclusion in wildfire mitigation plans. Other provisions of SB 901 that affect our consideration, interpretation, or approval of the wildfire mitigation plans may also be within the scope of this proceeding.⁷

Section 8386 contains a three-month window for Commission approval of the wildfire mitigation plans for all respondents. This timeframe is extremely ambitious for a matter of this magnitude and far shorter than typical deadlines applicable to Commission proceedings. The scope and schedule for this proceeding will reflect this short statutory deadline for approval of the plans. The initial wildfire mitigation plans will be filed in this proceeding, pursuant to a schedule and direction to be set forth in more detail in the Scoping Memo. An opportunity to comment on the directions for the wildfire mitigation plans will be provided after the Scoping Memo is issued. The respondent utilities are directed to work cooperatively with Commission staff to ensure that the filed plans are complete and clearly organized.

⁷ While SB 901 also addresses utilities' compliance with their approved wildfire mitigation plans and penalties for non-compliance, those issues will not be addressed in this proceeding at this time, but are likely to be part of a separate proceeding. An issue that may be considered later in this proceeding is whether, and if so, how, the Commission may decide to stagger the compliance periods for each electric utility. (Section 8386(b).)

This proceeding is also the vehicle for development and refinement of guidance for the content of future wildfire mitigation plans. After the Commission approves the initial wildfire mitigation plans, the Commission will determine how it will address subsequent rounds of annual plans. We expect to learn from our experience addressing the initial set of plans filed in this proceeding, and use that experience to inform our approach to future plans.⁸ The categorization of future phases of this proceeding, including establishing rules for wildfire mitigation plans, may be revisited at a later date. Any statutory changes related to wildfire mitigation plans may also be considered in this proceeding.

3. Categorization; *Ex Parte* Communications; Need for Hearing

Rule 7.1(d) of the Commission's Rules of Practice and Procedure requires that an order instituting rulemaking preliminarily determine the category of the proceeding and the need for hearing. As a preliminary matter, we determine that this proceeding is categorized as ratesetting. Accordingly, *ex parte* communications are subject to the restrictions and reporting requirements set forth in Article 8 of the Rules.

We are also required to preliminarily determine if hearings are necessary. We preliminarily determine that hearings are not necessary.

3.1. Preliminary Schedule

The preliminary schedule for initial activities in this proceeding is as follows:

⁸ For example, the Commission could adopt a standardized template for wildfire mitigation plans.

SCHEDULE

EVENT	DATE
Comments on OIR filed and served	10 days from issuance of OIR
Prehearing conference	November 14, 2018, 10:30 a.m., Commission hearing room A, 505 Van Ness Avenue, San Francisco.
Scoping memo	December 2018
Comments on instructions for initial Plans	10 days after Scoping Memo issued
Wildfire mitigation plans filed	February 2019
Opening comments on initial wildfire mitigation plans	20 days after Plan filing
Reply comments on initial wildfire mitigation plans	10 days after opening comments
Decision on initial wildfire mitigation plans	Three months from Plan filing/service, unless extended pursuant to SB 901, Pub. Utils. Code § 8386(e) ⁹

The prehearing conference (PHC) will be held for the purposes of (1) taking appearances, (2) discussing schedule and process, and (3) informing the scoping memo. The PHC shall be held beginning at 10:30 a.m. on November 14, 2018 in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California.

⁹ Section 8386(e) provides that “The commission shall approve each plan within three months of its submission, unless the commission makes a written determination, including reasons supporting the determination that the three-month deadline cannot be met and issues an order extending the deadline.”

The assigned Commissioner or the assigned Administrative Law Judge(s) (ALJ) may change the schedule to promote efficient and fair administration of this proceeding.

If there are any workshops or other public meetings in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

4. Respondents

PG&E, SCE, SDG&E, Liberty, Bear Valley and PacifiCorp are named as respondents to this proceeding.

5. Service of OIR

This OIR shall be served on all respondents.

In addition, in the interest of broad notice, this OIR will be served on the official service lists for the following proceedings:

- 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;
- 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 17-07-011, Application of Pacific Gas and Electric Company for Authority to Establish the Wildfire Expense Memorandum Account;
- 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; 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.

In addition, in the interest of broad notice, this OIR will be served on the following agencies named in SB 901, and organizations representing local governments:

- 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

Service of the OIR does not confer party status or place any person who has received such service on the Official Service List for this proceeding, other than respondents. Instructions for obtaining party status or being placed on the official service list are given below.

6. Filing and Service of Comments and Other Documents

Filing and service of comments and other documents in the proceeding are governed by the Commission's Rules of Practice and Procedure.

7. Addition to Official Service List

Addition to the official service list is governed by Rule 1.9(f) of the Commission's Rules of Practice and Procedure.

Respondents are parties to the proceeding (see Rule 1.4(d)) and will be immediately placed on the official service list.

Any person will be added to the "Information Only" category of the official service list upon request, for electronic service of all documents in the proceeding, and should do so promptly in order to ensure timely service of comments and other documents and correspondence in the proceeding. (*See* Rule 1.9(f).) The request must be sent to the Process Office by e-mail (process_office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102). Please include the Docket Number of this rulemaking in the request.

Persons who file comments on this OIR become parties to the proceeding (see Rule 1.4(a)(2)) and will be added to the "Parties" category of the official service list upon such filing. *In order to assure service of comments and other documents and correspondence in advance of obtaining party status, persons should*

promptly request addition to the "Information Only" category as described above; they will be removed from that category upon obtaining party status.

8. Subscription Service

Persons may monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

9. Intervenor Compensation

Intervenor Compensation is permitted in this proceeding. Any party that expects to claim intervenor compensation for its participation in this Rulemaking must file a timely notice of intent to claim intervenor compensation. (*See* Rule 17.1(a)(2).) Intervenor compensation rules are governed by §§ 1801 et seq. of the Public Utilities Code. Parties new to participating in Commission proceedings may contact the Commission's Public Advisor.

10. Public Advisor

Any person or entity interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov. The TTY number is (866) 836-7825.

Therefore, **IT IS ORDERED** that:

1. This Order Instituting Rulemaking is adopted pursuant to Senate Bill 901, Stats. 2018, Ch. 626 and Rule 6.1 of the Commission's Rules of Practice and Procedure.
2. The preliminary categorization is ratesetting.

3. The preliminary determination is that a hearing is not needed.

4. The preliminary scope of issues is as stated above.

5. A prehearing conference is set for 10:30 a.m. on November 14, 2018 at San Francisco, California.

6. The preliminary schedule for the proceeding is set forth in Section 3.1 above.

7. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities (CalPeco Electric), Bear Valley Electric Service, a division of Golden State Water Company, and Pacific Power, a division of PacifiCorp, are respondents to this Order Instituting Rulemaking.

8. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities (CalPeco Electric), Bear Valley Electric Service, a division of Golden State Water Company, and Pacific Power, a division of PacifiCorp shall, and any other person may, file and serve comments of not more than 20 pages responding to this Order Instituting Rulemaking (OIR) not later than 10 days from the issuance of this OIR.

9. Comments on this Order Instituting Rulemaking should address the scope and schedule of this proceeding, and its interaction with other related proceedings.

10. The Executive Director will cause this Order Instituting Rulemaking to be served on all respondents and on the service lists for the following Commission proceedings: Rulemaking (R.) 15-05-006, R.15-06-009, Application (A.) 15-09-010, A.17-07-011, A.18-04-001, and A.18-09-002, A.08-12-021. In addition, the Executive Director will cause this Order Instituting Rulemaking to be served on

the following agencies and organizations: 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 Municipal Utilities Association and California Native American Heritage Commission.

11. Any party that expects to claim intervenor compensation for its participation in this Rulemaking must timely file its notice of intent to claim intervenor compensation. (*See* Rule 17.1(a)(2).)

This order is effective today.

Dated _____, at San Francisco, California.

Appendix A

Amended Section 8386

8386.

(a) Each electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment.

(b) Each electrical corporation shall annually prepare and submit a wildfire mitigation plan to the commission for review and approval, according to a schedule established by the commission, which may allow for the staggering of compliance periods for each electrical corporation. The Department of Forestry and Fire Protection shall consult with the commission on the review of each wildfire mitigation plan. Prior to approval, the commission may require modifications of the plans. Following approval, the commission shall oversee compliance with the plans pursuant to subdivision (h).

(c) The wildfire mitigation plan shall include:

(1) An accounting of the responsibilities of persons responsible for executing the plan.

(2) The objectives of the plan.

(3) A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.

(4) A description of the metrics the electrical corporation plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics.

(5) A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.

(6) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.

(7) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.

(8) Plans for vegetation management.

(9) Plans for inspections of the electrical corporation's electrical infrastructure.

(10) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electrical corporation's service territory, including all relevant wildfire risk and risk mitigation information that is part of Safety Model Assessment Proceeding and Risk Assessment Mitigation Phase filings. The list shall include, but not be limited to, both of the following:

- (A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electrical corporation's equipment and facilities.
- (B) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the electrical corporation's service territory.
- (11) A description of how the plan accounts for the wildfire risk identified in the electrical corporation's Risk Assessment Mitigation Phase filing.
- (12) A description of the actions the electrical corporation will take to ensure its system will achieve the highest level of safety, reliability, and resiliency, and to ensure that its system is prepared for a major event, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, such as undergrounding, insulation of distribution wires, and pole replacement.
- (13) A showing that the utility has an adequate sized and trained workforce to promptly restore service after a major event, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the utility.
- (14) Identification of any geographic area in the electrical corporation's service territory that is a higher wildfire threat than is currently identified in a commission fire threat map, and where the commission should consider expanding the high fire threat district based on new information or changes in the environment.
- (15) A methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk that is consistent with the methodology used by other electrical corporations unless the commission determines otherwise.
- (16) A description of how the plan is consistent with the electrical corporation's disaster and emergency preparedness plan prepared pursuant to Section 768.6, including both of the following:
 - (A) Plans to prepare for, and to restore service after, a wildfire, including workforce mobilization and prepositioning equipment and employees.
 - (B) Plans for community outreach and public awareness before, during, and after a wildfire, including language notification in English, Spanish, and the top three primary languages used in the state other than English or Spanish, as determined by the commission based on the United States Census data.
- (17) A statement of how the electrical corporation will restore service after a wildfire.
- (18) Protocols for compliance with requirements adopted by the commission regarding activities to support customers during and after a wildfire, outage reporting, support for low-income customers, billing adjustments, deposit waivers, extended payment plans, suspension of disconnection and nonpayment fees, repair processing and timing, access to utility representatives, and emergency communications.

(19) A description of the processes and procedures the electrical corporation will use to do all of the following:

(A) Monitor and audit the implementation of the plan.

(B) Identify any deficiencies in the plan or the plan's implementation and correct those deficiencies.

(C) Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, carried out under the plan and other applicable statutes and commission rules.

(20) Any other information that the commission may require.

(d) The commission shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.

(e) The commission shall approve each plan within three months of its submission, unless the commission makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met and issues an order extending the deadline. Each electrical corporation's approved plan shall remain in effect until the commission approves the electrical corporation's subsequent plan. At the time it approves each plan, the commission shall authorize the utility to establish a memorandum account to track costs incurred to implement the plan.

(f) The commission's approval of a plan does not establish a defense to any enforcement action for a violation of a commission decision, order, or rule.

(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. Nothing in this section shall be interpreted as a restriction or limitation on Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.

(h) The commission shall conduct an annual review of each electrical corporation's compliance with its plan as follows:

(1) Three months after the end of an electrical corporation's initial compliance period as established by the commission pursuant to subdivision (b), and annually thereafter, each electrical corporation shall file with the commission a report addressing its compliance with the plan during the prior calendar year.

(2) (A) Before March 1, 2021, and before each March 1 thereafter, the commission, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.

(B) (i) Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation's compliance with its plan. The engaged independent evaluator shall consult with, and operate under the direction of, the Safety and Enforcement Division of the commission. The independent evaluator shall issue a report on July 1 of each year

in which a report required by paragraph (1) is filed. As a part of the independent evaluator's report, the independent evaluator shall determine whether the electrical corporation failed to fund any activities included in its plan.

(ii) The commission shall consider the independent evaluator's findings, but the independent evaluator's findings are not binding on the commission, except as otherwise specified.

(iii) The independent 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.

(iv) The independent evaluator's findings shall not apply to events that occurred before the initial plan is approved for the electrical corporation.

(3) The commission shall authorize the electrical corporation to recover in rates the costs of the independent evaluator.

(4) The commission shall complete its compliance review within 18 months after the submission of the electrical corporation's compliance report.

(i) An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan.

(j) Each electrical corporation shall establish a memorandum account to track costs incurred for fire risk mitigation that are not otherwise covered in the electrical corporation's revenue requirements. The commission shall review the costs in the memorandum accounts and disallow recovery of those costs the commission deems unreasonable.

(End of Appendix A)