

**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.

FILED  
PUBLIC UTILITIES COMMISSION  
JULY 26, 2019  
SACRAMENTO, CALIFORNIA  
RULEMAKING 19-07-xxx

**ORDER INSTITUTING RULEMAKING****Summary**

The Commission issues this Order Instituting Rulemaking to respond to legislative direction in Assembly Bill 1054 (Stats. 2019, ch. 79). This proceeding will consider whether the Commission should exercise its authority under Public Utilities Code Section 701 to require certain electrical corporations to collect from ratepayers the non-bypassable charge described in that statute to support California's new Wildfire Fund.

**1. Background**

Assembly Bill (AB) 1054 (Stats. 2019, ch. 79) (AB 1054) is intended to address the danger of increased ratepayer costs resulting from liabilities attaching to California's investor-owned utilities (IOUs) as a result of devastating wildfires related to IOU infrastructure. Among other things, AB 1054 establishes a Wildfire Fund to pay eligible claims from covered wildfires, as defined by statute. AB 1054 requires the Commission to institute a rulemaking to consider using its authority to require certain IOUs to impose a non-bypassable charge on their ratepayers and use the collected funds to support the Wildfire Fund, as described in that statute, including the payment of any bonds issued pursuant to

AB 1054 that are allocated to the fund. AB 1054 requires the Commission to determine if the imposition of the Wildfire Fund non-bypassable charge is just and reasonable and if such imposition is an appropriate exercise of the Commission's authority.

This Order Instituting Rulemaking (OIR) responds to the mandate of AB 1054 to institute a rulemaking to consider a Wildfire Fund non-bypassable charge.

## **2. Preliminary Scoping Memo**

The Commission will conduct this rulemaking in accordance with Article 6 of the Commission's Rules of Practice and Procedure (Rules). As required by Rule 7.1(d), this OIR includes a preliminary scoping memo as set forth below, and preliminarily determines the category of this proceeding and the need for hearing.

### **2.1. Issues**

The scope of this proceeding is to implement the requirements of AB 1054 relating to the imposition of the non-bypassable charge. The primary focus of this proceeding is on the issues raised by Section 3289 of the Public Utilities Code, as added by AB 1054. These issues are:

1. Whether it is appropriate for the Commission to exercise its authority 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 estimated dollar amount of the revenue requirement referred to in Section 3289 of the Public Utilities Code.

4. The nature of the Commission's agreement with the Department of Water Resources pursuant to Water Code Section 80524(b).
5. Other issues relating to the Wildfire Fund non-bypassable charge that must be addressed before the Wildfire Fund non-bypassable charge may be imposed.

If the Commission finds the imposition of a Wildfire Fund non-bypassable charge is just and reasonable, the Commission processes for determining the charges to be annually collected from ratepayers of certain electrical corporations will be addressed in separate proceedings or a separate phase of this proceeding.

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

Rule 7.1(d) requires that an OIR 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.

### **4. Preliminary Schedule**

AB 1054 mandates that the Commission adopt a decision in this proceeding no later than 90 days after the initiation of the rulemaking. Therefore, the preliminary schedule for this proceeding is as follows:

<b>Event</b>	<b>Date</b>
Prehearing Conference Statements Served and Filed	August 7, 2019
Prehearing Conference	August 8, 2019
Scoping Memo and Ruling	August 12, 2019

Event	Date
Opening Comments on Scoped Issues	August 22, 2019
Reply Comments on Scoped Issues	August 29, 2019
Deadline for Filing Motions for Oral Argument <sup>1</sup>	August 29, 2019
Proposed Decision	September 2019
Final Decision	October 2019

Parties may enter appearances and address the OIR and the issues, scope, schedule for this proceeding at the prehearing conference (PHC). The PHC shall be held beginning at 10 a.m. on August 8, 2019 in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California. Respondents are required, and interested parties are requested, to serve and file PHC statements no later than August 7, 2019 on the draft issues for scope in this proceeding including, with respect to draft issue #3, an estimated revenue requirement of \$880,000,000 per year.

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.

This schedule may be revised in the Scoping Memo and Ruling, and the assigned Commissioner or the assigned Administrative Law Judge(s) (ALJ) may modify this schedule to promote efficient and fair administration of this proceeding.

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<sup>1</sup> Per Rule 13.13, in a ratesetting proceeding parties must make a motion for oral argument by the time specified in the scoping memo or later ruling if no briefing schedule is established. No briefing schedule is proposed for this proceeding.

## **5. Respondents**

Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&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) are named as respondents to this proceeding.

## **6. 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 15-02-012, 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.

In addition, in the interest of broad notice, this OIR will be served on the following agencies named in Senate Bill 901 (Stats. 2018, ch. 626), organizations representing local governments, and independent transmission owners:

- 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.

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.

## **7. 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.

## **8. 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](mailto: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 appear at the PHC and request party status will become parties to the proceeding and will be added to the "Parties" category of the official service list. *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.*

## **9. 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/>.

## **10. 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.

## **11. 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](mailto: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 Assembly Bill 1054 (Stats. 2019, ch. 79) 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 preliminarily scope of issues is as stated above.

5. A prehearing conference is set for 10 a.m. on August 8, 2019 at San Francisco, California.

6. The preliminary schedule for the proceeding is as set forth 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. Respondents shall serve and file prehearing conference statements no later than August 7, 2019 on the draft issues for scope in this proceeding including, with respect to draft issue #3, an estimated revenue requirement of \$880,000,000 per year.

9. 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.) 15-02-012, R.15-05-006, R.15-06-009, R.18-10-007, R.18-12-005, Application (A.) 15-09-010, A.16-06-013, A.16-09-001, A.17-06-030, A.17-07-011, A.17-10-007, A.18-04-001, A.18-09-002, A.18-12-009, A.19-03-002, A.08-12-021, and Investigation 18-11-006. In addition, the Executive Director will cause this Order Instituting Rulemaking to be served 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,

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California Municipal Utilities Association, California Native American Heritage Commission, Citizens Transmission LLC, Startrans IO, LLC, Trans Bay Cable LLC, Trans-Elect NTD Path 15, LLC, and NextEra Energy Transmission.

10. 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.