

Decision 20-07-014 July 16, 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.

Rulemaking 19-07-017

**DECISION APPROVING SERVICING ORDERS BETWEEN  
THE CALIFORNIA DEPARTMENT OF WATER RESOURCES  
AND THE LARGE ELECTRICAL CORPORATIONS**

**Summary**

This decision approves servicing orders to be executed between the California Department of Water Resources and the large electrical corporations in order to support the collection of the charge adopted in Decision 19-10-056.

This proceeding remains open.

**1. Background**

Assembly Bill (AB) 1054 (Ch. 79, Stats. 2019) 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 up to this point 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 May 4, 2020, the California Department of Water Resources (DWR) sent a memorandum to the Commission and individually to the Commissioners requesting adoption of proposed Wildfire Fund NBC Servicing Orders (Servicing Orders) applicable to the large electrical corporations. These proposed Servicing

Orders proposed to set terms and conditions allowing DWR and the large electrical corporations to cooperate in funding the Wildfire Fund using the Wildfire Fund NBC, as envisioned by Water Code Section 80520.2

According to DWR, the proposed Servicing Orders were modeled on the Servicing Orders that were adopted by the Commission in D.11-03-004 for the large electrical corporations in relation to the DWR Bond Charge. DWR sought Commission approval of the proposed Servicing Orders pursuant to Water Code Sections 80500, et seq in their May 4, 2020 memorandum.

The assigned ALJ issued an email ruling on May 6, 2020 seeking party comment on the proposed Servicing Orders no later than May 29, 2020. Specifically, the email ruling sought party responses to the following two questions:

- 1) Is it reasonable for the Commission to order the large electrical corporations to provide the requested services on the terms and conditions specified in the proposed Servicing Orders?
- 2) Do the proposed Servicing Orders enable the Commission to successfully impose the Wildfire Fund NBC under the terms of the Public Utilities Code, Water Code, and D.19-10-056? If not, what changes should be made to the proposed Servicing Orders in order to successfully impose the Wildfire Fund NBC under the terms of the Public Utilities Code, Water Code, and D.19-10-056?

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<sup>2</sup> Stating that DWR “may contract with an electrical corporation or its successor in the performance of related service, as an agent of the department, to provide billing, collection, and other related services on terms and conditions that reasonably compensate the electrical corporation or its successor for its services, and adequately secure payment to the department.”

Party comments were served and filed on May 29, 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).

## **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 provide monies to the Wildfire Fund as envisioned by AB 1054, it is necessary for DWR to contract with the large electrical corporations to perform several tasks, including acting as an agent of DWR, providing billing, collection, and other related services, and adequately segregating funds and securing payment to DWR. Therefore, as the Servicing Orders must be considered and approved before the Wildfire Fund NBC may be imposed, the issue of whether to approve the Servicing Orders is properly within the scope of this proceeding.

## **3. Discussion**

The first issue to consider is whether it is reasonable for the Commission to order the large electrical corporations to provide the requested services on the terms and conditions specified in the proposed Servicing Orders circulated to the parties for their review on May 6, 2020. All parties commenting on the proposed Servicing Orders asserted that it was reasonable for the Commission to approve them and order the large electrical corporations to use them.

SDG&E argued that because the Commission found that the imposition of the Wildfire Fund NBC was just and reasonable in D.19-10-056, "there must be a

mechanism for [the large electrical corporations] to collect the Wildfire Fund non-bypassable charge from customers and remit those charges to DWR to support the Wildfire Fund, as well as for DWR to compensate IOUs for their services.” SDG&E further asserted that the proposed Servicing Orders circulated to the parties provided a “reasonable and appropriate mechanism” for remitting the Wildfire Fund NBC to DWR.<sup>3</sup> PG&E also argued that the proposed Servicing Orders were reasonable, citing the collaborative approach taken by DWR in drafting the Servicing Orders.<sup>4</sup> No other party directly commented on this issue.

Because the proposed Servicing Orders allow the large electrical corporations to remit to DWR the proceeds of the Wildfire Fund NBC, and allow for the large electrical corporations to act as agents for DWR, the proposed Servicing Orders are reasonable and should be approved.

The second issue to consider is whether the proposed Servicing Orders enable the Commission to successfully impose the Wildfire Fund NBC under the terms of the Public Utilities Code, Water Code, and D.19-10-056.

SDG&E argued that the proposed Servicing Orders allowed for successful implementation of the Wildfire Fund NBC because they implemented the Commission’s determination that a Wildfire Fund NBC should be imposed, and that they helped give effect to various sections of the Public Utilities Code and the Water Code related to the imposition of the Wildfire Fund NBC.<sup>5</sup> EPUC

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<sup>3</sup> SDG&E comments at 2.

<sup>4</sup> PG&E comments at 1.

<sup>5</sup> SDG&E comments at 2.

concluded that the proposed Servicing Orders complied with the law and Commission decisions, specifically in their exemption of certain customers from the Wildfire Fund NBC as such customers were exempted by applicable Commission orders.<sup>6</sup>

SCE asserted that the proposed Servicing Orders reflected negotiations with DWR that settled upon language that determine how SCE will collect from its customers and remit to DWR the Wildfire Fund NBC, and how DWR will pay SCE for such services. SCE therefore claims that “[t]he resulting draft Servicing Order is consistent with the terms of the Public Utilities Code, Water Code, and D.19-10-056” and should be approved.<sup>7</sup> PG&E also agreed that the proposed Servicing Orders fulfilled relevant statute and Commission decisions.<sup>8</sup>

The proposed Servicing Orders enable the Commission to successfully impose the Wildfire Fund NBC under the terms of the Public Utilities Code, Water Code, and D.19-10-056 in that they allow the Wildfire Fund NBC to be collected from ratepayers and remitted to DWR in the manner prescribed by law. For this reason, the proposed Servicing Orders are reasonable and should be approved.

#### **4. Amendment to PG&E Servicing Order**

In its comments, PG&E proposed an amendment to its proposed Servicing Order where the projected “set-up fee” is reduced by almost one half to \$650,000.

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<sup>6</sup> EPUC comments at 2-4.

<sup>7</sup> SCE comments at 1-2.

<sup>8</sup> PG&E comments at 2.

PG&E proposed revisions to the proposed PG&E Servicing Order to reflect this lower cost estimate.

Because the revision to the PG&E Servicing Order proposed by PG&E would reduce the costs involved with collecting and remitting the Wildfire Fund NBC proceeds to DWR, the amendment is reasonable and should be approved. PG&E shall implement and execute the proposed Servicing Order as attached to the May 6, 2020 email ruling and as amended by its comments filed on May 29, 2020. SCE and SDG&E shall implement and execute the proposed Servicing Orders as attached to the May 6, 2020 email ruling.

#### **5. Comments on Proposed Decision**

The ALJ's proposed decision was mailed to the parties in accordance with Section 311 of the Public Utilities Code, and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by SCE on July 2, 2020. Reply comments were not filed by any party. No changes were made to the decision in response to party comments.

#### **6. Assignment of Proceeding**

Clifford Rechtschaffen is the assigned Commissioner and Patrick Doherty is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. In order for the Wildfire Fund NBC to provide monies to the Wildfire Fund as envisioned by AB 1054, it is necessary for DWR to contract with the large electrical corporations to perform several tasks, including acting as an agent of DWR, providing billing, collection, and other related services, and adequately securing payment to DWR.

2. The Servicing Orders must be considered and approved before the Wildfire Fund NBC may be imposed.
3. The proposed Servicing Orders allow the large electrical corporations to remit to DWR the proceeds of the Wildfire Fund NBC, and allow for the large electrical corporations to act as agents for DWR.
4. The proposed Servicing Orders enable the Commission to successfully impose the Wildfire Fund NBC under the terms of the Public Utilities Code, Water Code, and D.19-10-056 in that they allow the Wildfire Fund NBC to be collected from ratepayers and remitted to DWR in the manner prescribed by law.
5. The amendment to the PG&E Servicing Order proposed by PG&E would reduce the costs involved with collecting and remitting the Wildfire Fund NBC proceeds to DWR.

### **Conclusions of Law**

1. The proposed Servicing Orders are reasonable and should be approved.
2. The amendments to the PG&E Servicing Order proposed by PG&E are reasonable and should be approved.

## **O R D E R**

**IT IS ORDERED** that:

1. Pacific Gas and Electric Company shall implement and execute the proposed Servicing Order between itself and the California Department of Water Resources as attached to the May 6, 2020 e-mail ruling and as amended by its comments filed on May 29, 2020.



2. Southern California Edison Company shall implement and execute the proposed Servicing Order between itself and the California Department of Water Resources as attached to the May 6, 2020 e-mail ruling.

3. San Diego Gas & Electric Company shall implement and execute the proposed Servicing Order between itself and the California Department of Water Resources as attached to the May 6, 2020 e-mail ruling.

4. Rulemaking 19-07-017 remains open.

This order is effective today.

Dated July 16, 2020, at San Francisco, California.

MARYBEL BATJER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners