~~STATE OF CALIFORNIA~~ ~~GAVIN NEWSOM., *Governor*~~

~~PUBLIC UTILITIES COMMISSION~~
~~505 VAN NESS AVENUE~~
~~SAN FRANCISCO, CA 94102-3298~~

~~December 9, 2022~~ **~~Agenda ID #21237~~**
~~Ratesetting~~

~~TO PARTIES OF RECORD IN APPLICATION 21-06-021:~~

~~This is the proposed decision of Administrative Law Judges Regina DeAngelis and John H. Larsen. 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 January 12, 2023, 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 to the proceeding 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).~~

~~/s/ MICHELLE COOKE~~
~~Michelle Cooke~~
~~Acting Chief Administrative Law Judge~~

~~MLC:mef~~
~~Attachment~~

Decision **PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGES REGINA DEANGELIS AND JOHN H. LARSEN** **(Mailed 12/9/2022)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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, 2023.	Application 21-06-021

DECISION APPROVING SETTLEMENT REGARDING WILDFIRE LIABILITY INSURANCE COVERAGE

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DECISION APPROVING SETTLEMENT REGARDING WILDFIRE LIABILITY INSURANCE COVERAGE

Summary

This decision adopts an unopposed settlement by Pacific Gas and Electric Company (PG&E), the Public Advocates Office at the California Public Utilities Commission, and The Utility Reform Network to resolve the contested issues for the 2023-2026 general rate case (GRC) period regarding the structure and funding of PG&E's wildfire liability insurance coverage. The adopted settlement establishes a revenue requirement of $400 million~~ per year,~~ for 2023~~ through 2026,~~ for wildfire liability insurance coverage and approves coverage which consists entirely of self-insurance for third-party wildfire claims of less than $1 billion per year. The settlement is adopted within the framework of the California Wildfire Fund established by statute in 2019.

The settlement's full use of self-insurance is supported by a number of factors. Since 2017, wildfire liability insurance for third-party claims has risen to the point that self-insurance is likely to achieve sufficient insurance coverage at a lower overall cost to PG&E's customers than commercial insurance. PG&E shareholders will pay a deductible of 5 percent up to a maximum of $50 million for self-insurance costs for third-party wildfire claims that arise each calendar year. PG&E shareholders will also continue to contribute to the Wildfire Fund, which was created by statute for wildfire claims greater than $1 billion per year. For these reasons, the settlement is reasonable in light of the whole record of this proceeding, consistent with the law, and in the public interest.

The Commission will adopt PG&E's total revenue requirement in a future decision in this proceeding. PG&E will continue to track the cost of PG&E's

wildfire liability insurance in the Risk Transfer Balancing Account. The approved settlement is set forth in Appendix 1.

This proceeding remains open.

1. Background

Pacific Gas and Electric Company (PG&E) is a public investor-owned utility providing electric retail and natural gas service to approximately 16 million customers. Its service territory consists of approximately 70,000 square-miles in northern and central California.[1] On June 30, 2021, PG&E filed Application (A.) 21-06-021, including its proposed structure, funding, and revenue requirement for wildfire liability insurance coverage.[2] Numerous protests and responses to the application were timely filed by parties.[3] An evidentiary hearing on insurance-related issues was scheduled for August 26, 2022. However, after PG&E served its rebuttal testimony on August 25, 2022, PG&E, Cal Advocates, and TURN (the Settling Parties) began exploring settlement of the wildfire liability insurance issues. Accordingly, the Administrative Law Judges (ALJs) granted a request to postpone evidentiary hearings on PG&E's insurance program until September 13, 2022. On September 9, 2022, the Settling Parties requested that the hearing be taken off the calendar while they finalized a settlement. On September 20, 2022, PG&E issued a Notice of Settlement Conference pursuant to Rule 12.1(b) of the Commission's Rules. On September 28, 2022, the Settling Parties held the settlement conference, which

[1] 2023 general rate case (GRC) Application of PG&E filed on June 30, 2021 at 1; PG&E Exhibit-1 at 1-1.

[2] PG&E amended its application on March 10, 2022. All documents filed in this proceeding are available on the Commission's website at the Docket Card for AppliA.21-06-021.

[3] Twenty-nine entities were made parties either by filing protests or responses to PG&E's application or by filing motions pursuant to Rule 1.4.

was attended by party representatives. On October 7, 2022, the Settling Parties filed a Motion for Expedited Approval and Adoption of the Attached Settlement on Insurance-Related Issues (Joint Settlement Motion).

1.1. PG&E's Current Wildfire Liability Insurance Coverage

PG&E currently holds general liability insurance to cover claims for workers' compensation, bodily injury, and property damage from wildfire and other causes. For the last GRC period (2020-2022),[4] the Commission authorized PG&E to spend $297 million for general liability insurance from the commercial market for 2020.[5] The majority of this general liability insurance was for excess liability insurance for third-party wildfire-related claims. This general liability insurance also included costs of approximately $5.155 million for other commercial insurance providing coverage for crime, fiduciary liability, business travel, surety bonds, etc.[6] Given the significant difference in price for wildfire and non-wildfire liability insurance, PG&E now purchases liability coverage for wildfire claims separate from non-wildfire liability insurance.[7]

The Commission in D.20-12-005 authorized PG&E to establish a two-way Risk Transfer Balancing Account (RTBA) to record general liability insurance costs. The RTBA allows PG&E to record the difference between the amounts authorized in D.20-12-005 and the actual costs of insurance premiums for obtaining coverage up to $1.4 billion. D.20-12-005 authorized PG&E to use excess funding in its RTBA as self-insurance up to $1 billion if competitively-priced

[4] The test-year 2020 GRC covered the period from 2020 through 2022.

[5] Decision (D.) 20-12-005, Conclusion of Law (COL) 85 at 404.

[6] D.20-12-005 at 249.

[7] Ex. PG&E-9 at 3-39. In this GRC, wildfire liability insurance is included in the line item for general liability insurance. (*See* PG&E Exhibit 9 at 3-15, Table 3-1, line 6.)

insurance in available markets was limited.[8] However, PG&E did not rely on this authority to utilize the self-insurance provisions of its RTBA because it never had excess funding in the account.[9]

In D.20-12-005, the Commission expected PG&E to obtain additional insurance within the limits of what is authorized by D.20-12-005 by purchasing commercial insurance if competitively priced insurance was available in the commercial market. ~~D.20-12-005 considered commercial insurance to be uncompetitive if it would cost more than 50 percent of the coverage provided.[10]~~ For the 2021-2022 insurance policy year, PG&E purchased $900 million in wildfire insurance coverage at a cost of $708 million.[~~11~~10] ~~This~~PG&E's currently effective coverage for the 2022-2023 insurance policy year expires in March 2023 and July 2023.[~~12~~11]

1.2. Wildfires Involving PG&E Equipment, Claims History, and Bankruptcy

From 2017 through 2021, an unprecedented number of wildfires tragically caused a record amount of damage to persons and property in PG&E's service territory.[~~13~~12] Some of these fires were caused by malfunctions of PG&E electric infrastructure. In some instances, PG&E can be held liable for the damages from third parties impacted by the fires in PG&E's territory started by its powerlines

[8] PG&E Exhibit 9 at 3-29.

[9] PG&E Exhibit 9 at 3-39 - 3-30.

~~[10] D.20-12-005 at 256.~~

[~~11~~10] PG&E Exhibit 9 at 3-26 – 3-27; TURN Exhibit 17 at 1.

[~~12~~11] October 7, 2022 Joint Settlement Motion at 11.

[~~13~~12] On November 16, 2022, official notice was taken of the California Department of Forestry Incident Archives from 2017-2022, which are available at www.fire.ca.gov.

or other equipment.[~~14~~13] As a result, PG&E's liability for claims arising from fires substantially increased to the amounts estimated below:[~~15~~14]

Table 1

Year	**PG&E Estimated Wildfire Liabilities**	**Amount ~~Paid or Recovered~~[~~16~~] From Insurance**[15]
2017	$7,500 million	$~~7,500~~842.5 million
2018	$12,900 million	$1,200 million
2019	$800 million	$430 million
2020	$375 million	$375 million
2021	$1,150 million	$569 million

Damage caused by fires ignited by PG&E infrastructure in 2022 was less than 10 percent of the average for the last six years.[~~17~~16]

PG&E did not have sufficient insurance to cover the 2017 and 2018 claims and, as a result, filed for Chapter 11 bankruptcy protection in January 2019.[~~18~~17] ~~The~~Due to a number of factors including PG&E's increased claims, the general liability insurance market ~~responded~~continued to ~~PG&E's increased claims by increasing~~increase insurance premiums and ~~reducing~~reduce the availability of

[~~14~~13] *Barnham v. Southern California Edison Company* (1999) 74 Cal. App. 4th 744.

[~~15~~14] TURN Exhibit 17, Attachment 5 (PG&E Response to TURN Data Request 79, Question 3, Supplement 1) at 16 - 17.

~~[16] Amounts paid or recovered reflect claims incurred for wildfires that occurred during that year. The parties assert there is often a lag between the time a wildfire event occurs and when the claims are ultimately paid. Settlement, § 3.2.1.~~

[15] Amounts paid or recovered reflect claims incurred for wildfires that occurred during that year. The parties assert there is often a lag between the time a wildfire event occurs and when the claims are ultimately paid. Settlement, § 3.2.1.

[~~17~~16] On November 16, 2022, the ALJs took official notice of the California Department of Forestry Incident Archives from 2017-2022, which are available at **www.fire.ca.gov.**

[~~18~~17] D.20-05-053 at 2.

insurance to cover wildfire risk.[~~19~~18] As Table 2 illustrates, PG&E's wildfire liability insurance cost per limit of coverage grew until the costs reached 81.6 percent of the coverage amount for the 2020-21 insurance policy year:

Table 2[~~20~~19]

Policy Year	Cost (millions)	Coverage (millions)	Cost/ Coverage Limit
2015-16	$42.90	$931	4.6%
2016-17	$72.10	$869	8.3%
2017-18	$120.40	$842.50	14.3%
2018-19	$385.20	$1,400	27.5%
2019-20	$158.50	$430	36.9%
2020-21	$708.40	$868	81.6%
2021-22	$707	$900	78.5%
2022-23	$745.6	$940	79.3%

Furthermore, the cost to PG&E to procure approximately $600 million in coverage that will expire in July 2023 is estimated to be $500 million or 83 percent.[~~21~~20]

1.3. 2019 Wildfire Legislation

In 2019, the California Legislature responded to the record-breaking wildfires by enacting a broad set of reforms[~~22~~21] to address the increased risk of catastrophic wildfires, the increased risk of electric utilities to financial liability, and increased costs to ratepayer.[~~23~~22] The programs established a new wildfire

[~~19~~18] PG&E Exhibit 9 at 3-11, 3-24 - 3-26.

[~~20~~19] TURN Exhibit 17 at 4.

[~~21~~20] October 7, 2022 Joint Settlement Motion, Appendix B at 4.

[~~22~~21] The California Wildfire Fund was established under AB 1054 (Stats. 2019, ch. 79) (which was subsequently amended by AB 1513 (Stats. 2019, ch. 396)), and AB 111 (Stats. 2019, ch. 81), known as the "2019 Wildfire Legislation," and was signed into law by Governor Gavin Newsom on July 12, 2019.

[~~23~~22] AB 1054 (Stats. 2019, ch. 79) at § 1(a).

insurance fund to facilitate payment of wildfire-related liabilities, allowed electric utilities to elect to participate in the fund, instituted other requirements for utilities to access the fund, specified procedural mechanisms for utilities to seek recovery of costs, and limited ratepayer costs.

In 2019, the Legislature also adopted incentives for electrical utilities to increase investments in wildfire risk mitigation programs, including electrical grid hardening, situational awareness, and, in the near-term, public safety power shutoffs. For example, Assembly Bill (AB) 1054 requires electrical corporations to file wildfire mitigation plans with the Office of Energy Infrastructure, which are ratified by the Commission. These plans describe how utilities implement preventive strategies and programs to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including the impact of climate change.[~~24~~23]

PG&E became eligible to participate in the California Wildfire Fund (Wildfire Fund) when it exited bankruptcy and the Commission approved its reorganization plan.[~~25~~24] As required by the 2019 legislation, PG&E made its initial contribution to the fund[~~26~~25] of $4.81 billion, has made annual contributions[~~27~~26] of $192.60 million since then, and has complied with new requirements for wildfire mitigation.[~~28~~27] Consistent with the 2019 legislation, PG&E's initial contribution to

[~~24~~23] On November 16, 2022, official notice was taken of the 2022 Annual Report of the California Wildfire Fund's Operations dated July 28, 2022, which is available at 754529_4e8ac993311146a7943f633b808b5201.pdf (cawildfirefund.com).

[~~25~~24] D.20-05-053.

[~~26~~25] Pub. Util. Code § 3280(i)(1), § 3292.

[~~27~~26] Pub. Util. Code § 3280(b)(1), § 3292.

[~~28~~27] On November 16, 2022, official notice was taken of the 2022 Annual Report of the California Wildfire Fund's Operations dated July 28, 2022, which is available at 754529_4e8ac993311146a7943f633b808b5201.pdf (cawildfirefund.com).

the fund of $4.81 billion and its annual contributions of $192.60 million may not be recovered from ratepayers.[~~29~~28] AB 1054 requires utilities to be financially responsible for the first $1 billion in claim costs before the Wildfire Fund may be accessed.[~~30~~29] Ratepayers contribute to the Wildfire Fund through a portion of the non-bypassable charge they pay each month.[~~31~~30]

Pursuant to Pub. Util. Code Section 3293, the Wildfire Fund administrator[~~32~~31] shall periodically review and ~~make a recommendation as to~~recommend the appropriate amount of insurance coverage required based on various factors. This decision is subject to modification based on such a review.

1.4. Initial Positions of TURN, Cal Advocates, and PG&E

In its GRC application for test-year 2023, PG&E requested a revenue requirement of $707 million for third-party wildfire liability insurance coverage, including $250 million for self-insurance and $457 million for commercial insurance to secure a total of $1 billion in total wildfire coverage (the level before the Wildfire Fund can be accessed). For each attrition year, PG&E proposed an additional $75 million for self-insurance, raising the funding dedicated to self-insurance to $325 million in 2024, 2025, and 2026. All of the associated revenue requirement during the 2023 GRC cycle would be subject to two-way balancing account treatment through the RTBA, under which PG&E would be authorized to recover its actual costs of procuring insurance coverage of up to $1

[~~29~~28] Pub. Util. Code § 3292(b)(3), § 3292(c).

[~~30~~29] Pub. Util. Code § 3280(f).

[~~31~~30] D.19-10-056. *See also* D.19-12-056 at 27.

[~~32~~31] The current administrator of the Wildfire Fund is the California Earthquake Authority. On November 16, 2022, official notice was taken of the 2022 Annual Report of the California Wildfire Fund's Operations dated July 28, 2022, which is available at 754529_4e8ac993311146a7943f633b808b5201.pdf (cawildfirefund.com).

billion, without any further regulatory process or reasonableness review, consistent with the RTBA terms and conditions adopted in the test year 2020 GRC.[~~33~~32]

Cal Advocates recommended that the Commission authorize PG&E to purchase $353.75 million in commercial insurance and require the difference between the procured coverage and $1 billion in coverage to be shareholder-funded self-insurance.[~~34~~33]

TURN recommended that the Commission authorize PG&E to self-insure $333 million in wildfire liability insurance without any reliance on commercial insurance~~ and forego access to the Wildfire Fund for the first two years of the program~~.[~~35~~34] Absent a wildfire that drains the pool of resources, TURN's proposal would see the self-insurance fund grow to $1 billion in coverage after three years.[~~36~~35] Investments made by the fund could reduce funding in the fourth year of the GRC cycle or achieve an accrued amount somewhat above $1 billion by the end of the cycle. The self-insurance fund would be reimbursed for claims paid out after an application-based reasonableness review by the Commission to determine who is responsible for the reimbursement.[~~37~~36]

Comparing Positions on Insurance with the Settlement	
Party	**Insurance proposal**
PG&E's initial proposal	$707 million for third-party wildfire liability insurance coverage, including $250 million for self-insurance and $457 million for commercial insurance
Cal Advocates	$353.75 million in commercial insurance and require the difference between the procured coverage and $1 billion in coverage to be

[~~33~~32] October 7, 2022 Joint Settlement Motion at 4-5.

[~~34~~33] Cal Advocates Exhibit 13 at 13 - 15.

[~~35~~34] TURN Exhibit 17 at 16.

[~~36~~35] TURN Exhibit 17 at 16.

[~~37~~36] TURN Exhibit 17 at 17.

	shareholder funded self-insurance
TURN	Self-insure $333 million in wildfire liability insurance without any reliance on commercial insurance and forego access to the Wildfire Fund for the first two years of the program
Settlement	$400 million for self-insurance + 5 percent PG&E shareholder deductible + mechanism for annual adjustments for 2024, 2025 and 2026.

1.5. The October 7, 2022 Settlement

The Settling Parties (Cal Advocates, TURN, and PG&E) have agreed upon a program that would have PG&E use self-insurance for wildfire liability insurance coverage of less than $1 billion during the test year 2023 GRC cycle (2023-2026). Key elements of the Settlement, as summarized by the Settling Parties include:[~~38~~37]

- The initial rate recovery amount for PG&E's revenue requirement in 2023 shall be $400 million for self-insurance, a reduction of approximately $307 million from PG&E's proposed revenue requirement figure in its prepared testimony for total wildfire liability insurance coverage.[~~39~~38]
- In each year of the 2023 GRC cycle, PG&E would have a shareholder deductible of 5 percent of up to $1 billion of self-insurance costs ultimately paid for wildfire events that occur each calendar year. The total amount of the deductible will not exceed $50 million annually notwithstanding the number of wildfire events (*i.e.*, 5 percent of $1 billion of self-insurance costs). No rate recovery of such deductible costs would be permitted.[~~40~~39]
- The accrued self-insurance funds will be invested, and the resulting returns used to offset a portion of the cost to customers.[~~41~~40]

[~~38~~37] October 7, 2022, Joint Settlement Motion at 9-11.

[~~39~~38] Settlement, § 3.2.1.

[~~40~~39] Settlement, § 3.2.3.

[~~41~~40] Settlement, § 3.6.

- PG&E commits to seeking recovery of the portion of wildfire liability self-insurance that would be allocated to transmission customers through Federal Energy Regulatory Commission (FERC) Transmission Owner (TO)-jurisdictional rates[~~42~~41] in effect starting on January 1, 2024. To the extent recovery is authorized by FERC, the amounts recovered would be applied toward achieving a total, available self-insurance accrual amount of $1 billion, which could reduce the total amount collected from customers for that purpose.[~~43~~42]
- The Settlement Agreement (Settlement) includes a mechanism for annual adjustments for years 2024, 2025 and 2026. If the estimated claims for wildfire events from the immediately preceding year exceed the amount collected for self-insurance in that same year, the self-insurance amount to be collected in rates during the following year would increase by 50 percent of the difference between the self-insurance amount collected and estimated claims for events in the immediately preceding year. The increase in revenue requirement would become effective January 1 of the following year, or as soon thereafter as practicable. For example, if PG&E incurred estimated claims of $500 million for 2023, the self-insurance amount to be collected in 2024 would increase by $50 million, representing the 50% of the difference between the $400 million collected for self-insurance in 2023 and the estimated claims amount, and the new funding level of $450 million would go into effect on January 1, 2024, or as soon thereafter as practicable.[~~44~~43]
- The amount collected for self-insurance in revenue requirements would be reduced for 2025, 2026 or both if

[~~42~~41] The FERC-jurisdictional amount is the amount PG&E will seek to recover for self-insurance that would be allocated to transmission customers through FERC TO rates in effect starting on January 1, 2024, according to the Settlement Agreement, Section 3.5.

[~~43~~42] Settlement, § 3.5.

[~~44~~43] Settlement, § 3.2.2.1.

the self-insurance fund balance could reach $1 billion as of the end of either or both years.[~~45~~44]

- The Settlement includes reasonable provisions for addressing the balance of self-insurance funding at the end of the test year 2023 cycle, whether the funding is over-collected (such that the amount of wildfire-related claims over the cycle is less than the amount of self-insurance) or under collected (the amount of claims exceeds the amount of self-insurance).[~~46~~45]
- For the 2023 GRC period, the Settlement establishes that no reimbursement of self-insurance funding or self-insurance costs will be tied to the outcomes of reasonableness reviews.[~~47~~46]
- The Settlement provides for an implementation and reporting process that relies on Tier 2 Advice Letters for necessary revenue requirement adjustments under the agreement, as well as resolution of the overcollection or under collection that may exist at the end of the 2023 GRC period.[~~48~~47]
- The Risk Transfer Balancing Account (RTBA) shall be modified as necessary to support the administration of the Settlement and, more broadly, the shift to reliance on 100 percent self-insurance for wildfire liability insurance during the 2023 GRC period.[~~49~~48]
- The Settlement includes a provision that would become effective absent a final decision adopted no later than February 1, 2023, in recognition that despite the Settling Parties' shared belief that self-insurance is the strongly preferred option under current circumstances, as of that date PG&E may need to renew some or all of the

[~~45~~44] Settlement, § 3.2.2.2.

[~~46~~45] Settlement, § 3.3.

[~~47~~46] Settlement, § ~~Section~~ 3.4.

[~~48~~47] Settlement, § 3.7.

[~~49~~48] Settlement, § 3.8.

commercial coverage that will be expiring on March 31, 2023.~~[50]~~[49]

2. Discussion of Settlement

The Commission has long favored the settlement of disputes. This policy supports many worthwhile goals, including reducing litigation costs, conserving scarce resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.~~[51]~~[50] Although ~~we favor~~the Commission favors settlements, ~~we have~~it has specific rules regarding the submission, review, and approval of them. In evaluating whether to approve this Settlement, ~~we are~~the Commission is guided not only by ~~our~~its precedents on settlements, but also by the overall "just and reasonable" standard of the Public Utilities Code.~~[52]~~[51] As noted in Rule 12.1(d), the Commission will not approve a settlement "unless the settlement is reasonable in light of the whole record, is consistent with law, and in the public interest." Rule 12.1(d) provides that settlements need not be joined by all parties. The Settlement before the Commission is not an all-party settlement. However, the Settlement is not contested. As discussed below, ~~we find~~the Commission finds that the October 7, 2022 Settlement meets the criteria set forth in Rule 12.1(d) of the Commission's Rules of Practice and Procedure.

2.1. Reasonableness in Light of the Record

First, Rule 12.1(d) requires the Settlement to be reasonable in light of the whole record. The record in this proceeding, pertaining to wildfire liability insurance, is provided in the exhibits and testimony submitted with PG&E's application, PG&E's amended application, update testimony, Cal Advocates and

~~[50] The~~[49] Settlement, § 3.10.

~~[51]~~[50] D.05-03-022 at 7-8.

~~[52]~~[51] Pub. Util. Code § 451, which requires that public utility rates "shall be just and reasonable."

TURN's intervenor testimony, PG&E's rebuttal testimony, the declaration of Stephen J. Cairns submitted with the October 7, 2022 motion, and the documents for which official notice has been taken.

In D.20-12-005, the Commission authorized PG&E to use self-insurance if the availability of competitively-priced commercial insurance is limited.[~~53~~52] In D.20-12-005, the Commission made no determination on whether commercial insurance that cost more ~~that~~than 50 percent was reasonable. ~~But according~~According to PG&E's ~~own~~ guiding principles, procuring insurance that cost over 50 percent of the coverage amount would not ~~be~~have been reasonable for the 2019 renewal given the market conditions that existed at that time.[~~54~~53] Now that the cost of commercial insurance is up to 80 percent of the coverage it would provide, the Commission finds the Settlement recommending PG&E to use self-insurance for wildfire claims to be a reasonable alternative.

Self-insurance for PG&E's wildfire claims is a reasonable alternative to commercial insurance, in part, because the need for wildfire liability insurance is reduced by the coverage provided by the Wildfire Fund. This fund is designed to limit PG&E's annual wildfire liability to the annual Wildfire Fund "deductible" of $1 billion.

Other considerations are PG&E's recent history of third-party wildfire claims, the amounts paid for those claims, the time it takes to pay claims, and the cost of insuring possible claims below $1 billion in each of the next four years. In light of PG&E's recent claims, the Settlement provides a reasonable mechanism for funding and paying possible third-party wildfire damage claims. While the

[~~53~~52] D.20-12-005, Conclusion of Law (COL) 85 at 404.

[~~54~~53] TURN Exhibit 17 at 11.

Commission is unable to predict the amount of such claims in the next four years, if the payable claims are similar to the claims paid in the last three to five years, the cost of PG&E establishing wildfire liability self-insurance will probably be less than the cost of paying such claims using commercial insurance.

In addition, the parties suggest that the risk that ratepayers will pay more for self-insurance than for commercial insurance in any year is low for several reasons. First, the parties assert that wildfire liability claims incurred during the 2023-26 period are on average likely to be below the cost of equivalent commercial insurance, which has been approximately $750 million for $1 billion of coverage in recent years. The parties assert that this is a reasonably likely scenario because the average annual amount paid for wildfire claims from 2019 through 2021 was $458 million,[~~55~~54] which is less than the estimated current cost of commercial insurance for $1 billion in coverage and less than the $708 million PG&E paid for the last policy period. Second, the parties have performed a reasonable amount of modeling to support the finding that ratepayers are likely to pay less for self-insurance.[~~56~~55]

In testimony submitted earlier in this proceeding, the parties disagreed regarding the extent of self-insurance versus commercial insurance and the amounts to be paid by shareholders versus ratepayers. However, the Settlement explains that, after PG&E agreed to support using entirely self-insurance for its wildfire liability insurance under certain circumstances, settlement of these issues became a possibility.[~~57~~56]

[~~55~~54] *See* Table 1, herein.

[~~56~~55] The second example in the October 7, 2022 Joint Settlement Motion of the Settling Parties, Attachment A, Appendix A is a likely scenario because it is supported by seventeen modeling runs. *See* October 7, 2022 Joint Settlement Motion at 14.

[~~57~~56] October 7, 2022 Joint Settlement Motion at 7.

One of the unresolved issues between the parties' initial positions was the amount of PG&E shareholder responsibility. This issue was resolved by requiring PG&E shareholders to be solely responsible for a five percent deductible for self-insurance costs up to $1 billion or $50 million without any recovery in rates. This deductible creates an additional incentive for PG&E to mitigate the risk of wildfires caused by its equipment. The Commission also notes that the Wildfire Fund requires PG&E to make an annual non-recoverable contribution to the Wildfire Fund of $192.60 million per year.

Finally, the other terms of the settlement represent a reasonable compromise and provide an effective mechanism for the Commission to oversee PG&E's expenditure of wildfire liability self-insurance costs. The Settlement includes a mechanism for addressing claims above the self-insurance coverage authorized and accumulated. In addition, PG&E has a captive[~~58~~57] insurance administrator in place to administer the proposed self-insurance program.[~~59~~58]

All of the above provides sufficient evidence to support the parties' determination that the Settlement, along with the parties' evaluation of it, may be given material weight.[~~60~~59] In addition, the scope of the record provides sufficient information and data to enable the Commission to implement the provisions, terms, and conditions of the Settlement, and to discharge the Commission's regulatory obligations. Therefore, the Settlement is reasonable in light of the whole record before the Commission.

2.2. Consistency With Applicable Law

[~~58~~57] A captive is a licensed insurance company created by a company, or group of companies, to cover unique risks specific to the operations of the forming companies that are difficult to place directly into the traditional insurance market (e.g., wildfire risk). PG&E Exhibit 9 at 3-12.

[~~59~~58] PG&E Exhibit 9 at 3-11 - 3-12.

[~~60~~59] *Southern California Gas Co.* (1999) D.00-09-034, 2000 Cal. PUC LEXIS 694, at 31.

Second, the Settlement is consistent with applicable law. The applicable law includes Pub. Util. Code Sections 451, 454, 491, 701, 728, and requirements of the 2019 Wildfire Legislation.[~~61~~60] The Commission found PG&E to have satisfied the eligibility requirements for the Wildfire Fund when the Commission approved PG&E's reorganization plan. PG&E has also paid its initial contribution and annual contributions to this fund. The Settlement is structured to provide wildfire liability insurance coverage within the framework provided by the Wildfire Fund during the 2023-2026 period, consistent with the requirement that the utility ~~maintain~~maintains reasonable insurance coverage under Pub. Util. Code Section 3293. Finally, no party opposed the Settlement or made the Commission aware of any statutory provisions or controlling law that would contravene or compromise the Settlement.

2.3 Public Interest Standard

Third, Rule 12.1(d) requires settlements to be in the public interest. The parties reasonably agree that the Settlement is in the public interest based on all of the above. The initial rate recovery amount for PG&E's revenue requirement in 2023 of $400 million for self-insurance is $307 million less than the amount PG&E proposed in its application. For the entire GRC period from 2023 through 2026, the probability of ratepayers paying more for wildfire liability insurance through self-insurance is low, and there is a high probability that ratepayers will pay less using self-insurance compared to the current rate of commercial insurance. The trend in wildfire liability insurance costs can be further assessed by reviewing PG&E's claims history and damages caused by wildfires. One cannot determine how much more will be paid on claims from the catastrophic

[~~61~~60] Pub. Util. Code § 3280 *et seq.*

years of 2017 and 2018 or what the impacts of climate change will be in the next four years. But by the end of the 2022 fire season, the damage fires caused to structures in 2022 was substantially less than the average claims during the last six years.[~~62~~61] Self-insurance will save additional funds by avoiding fees and taxes associated with commercial insurance and allow money to be earned from the investment of self-insurance funds.[~~63~~62]

3. Timing of Consideration

Rule 12.1(c) of the Commission's Rules states that settlements should ordinarily not include deadlines for Commission approval. However, in a "rare case" where a delay beyond a certain date would invalidate the basis for the proposal, the timing urgency must be clearly stated and fully justified in the motion seeking Commission consideration of the Settlement.

The Settling Parties submit that the circumstances present here represent such a "rare case" and, therefore, urge the Commission to adopt an approach under which a final decision adopting the Settlement would be issued no later than February 1, 2023. A substantial portion of PG&E's current wildfire liability insurance coverage for the 2022-2023 insurance policy year is set to expire on March 31, 2023. Among other reasons, PG&E would need to make decisions on how to replace that insurance coverage by approximately mid-February 2023 and would likely need to engage its brokers for the renewal by the beginning of February to make that timeline. Absent authority to implement a 100 percent self-insurance model, PG&E would likely choose to rely on some amount of commercial insurance products for that purpose. Finally, issuing a final decision

[~~62~~61] On November 16, 2022, official notice was taken of the California Department of Forestry Incident Archives from 2017-2022, which are available at **www.fire.ca.gov.**

[~~63~~62] October 7, 2022 Joint Settlement Motion at 13.

on the Settlement by February 1, 2023 would enable the utility to implement a 100 percent self-insurance approach to wildfire liability insurance at the earliest opportunity, and thereby maximize the potential benefits such a shift in insurance strategy could deliver to PG&E's customers.[~~64~~63]

Therefore, this Settlement presents the "rare case" described in Rule 12.1(c) in which a delay in implementation would at least partly invalidate the basis for the proposal.

4. Conclusion

Under the Settlement approved by this decision, PG&E is authorized to entirely self-insure for third-party wildfire liability insurance claims of less than $1 billion per year for the 2023–2026 GRC period. PG&E is further authorized to recover a revenue requirement for wildfire liability insurance in 2023 of $400 million, with annual adjustments for years 2024, 2025, and 2026, as described above, with the amount collected for self-insurance in the revenue requirements being reduced for 2025, 2026 or both years, if PG&E's self-insurance fund balance reaches $1 billion. PG&E will invest the self-insurance funds and the resulting returns will be used to offset a portion of the cost to customers.

The revenue requirement reflected in this Settlement will be included in the revenue requirement approved by the Commission in the final decision in this GRC.[~~65~~64]

PG&E shall seek recovery of the portion of wildfire liability self-insurance that would be allocated to transmission customers through Federal Energy

[~~64~~63] October 7, 2022 Joint Settlement Motion at 15-17.

[~~65~~64] The inputs into the Results of Operations model (such as expense, taxes, etc.) for wildfire liability self-insurance to produce the revenue requirement reflected in the Settlement will be established when the total revenue requirement for 2023-2026 is adopted by the Commission in in this proceeding.

Regulatory Commission (FERC) Transmission Owner (TO) rates in effect starting on January 1, 2024. Any amount recovered would be applied toward ~~to~~ the self-insurance fund. In each year of the 2023 GRC cycle, PG&E shareholders would pay the first five percent of up to $1 billion of self-insurance costs paid for any third-party claims for damages caused by wildfires started by PG&E equipment, which may not be recovered from ratepayers.

The Settlement provides for an implementation and reporting process using Tier 2 Advice Letters for necessary revenue requirement adjustments under the agreement, as well as resolution of the over -collection or under -collection that may exist at the end of the 2023 GRC period.

PG&E's Risk Transfer Balancing Account shall be modified as necessary to support the administration of the Settlement~~,~~ and to ensure funds deposited in the Risk Transfer Balancing Account are ~~only~~ used to support the self-insurance mechanism approved in this decision. Accordingly, the Commission finds the Settlement reasonable in light of the whole record, consistent with law, and in the public interest, for the reasons discussed herein.

5. Comments on Proposed Decision

The proposed decision of ALJs Regina DeAngelis and John H. Larsen 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 Commission's Rules of Practice and Procedure. Comments were filed on ~~__________ by __________. Reply~~December 28, 2022 by the Settling Parties. Minor revisions and corrections have been made to reflect the Settling Parties' comments ~~were filed by __________~~.

6. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Regina DeAngelis~~,~~ and John H. Larsen are the assigned ALJs in this proceeding.

Findings of Fact

1. The Settling Parties held a settlement conference on September 28, 2022, as required by Rule 12.1(b) with notice to all parties to the proceeding.

2. The cost of commercial insurance to cover PG&E's wildfire liability is up to 80 percent of the coverage it would provide.

3. The Wildfire Fund will limit PG&E's annual wildfire liability to the annual Wildfire Fund deductible of $1 billion.

4. The Settlement reduces ~~the~~ PG&E's proposed test -year 2023 revenue requirement for wildfire liability insurance from $707 million to $400 million with adjustments for years 2024, 2025, and 2026, if the estimated claims for wildfire events from the immediately preceding year exceed the amount collected for self-insurance in that same year.

5. The total cost reflected in the revenue requirement to PG&E customers of the Settlement will depend on the total amount of eligible wildfire liability claims that PG&E incurs during the 2023-2026 period.

6. In any year during the 2023-2026 period, PG&E's wildfire liability insurance cost through self-insurance pursuant to the Settlement is likely to be less than the cost of commercial insurance for $1 billion of coverage.

7. The potential impact of the Settlement also includes:

    (a) Additional savings in avoided fees and taxes tied to third-party insurance coverage, amounting to at least approximately $14 million in 2023 that PG&E would not need to collect from ratepayers under the proposed self-insurance structure.

(b) The Settlement provides for investment of the self-insurance funds, with a return that will provide an additional contribution to the amount of accrued funds and could serve to reduce the total amount collected from PG&E customers.

8. PG&E commits to ~~seek~~seeking a portion of wildfire liability self-insurance costs in the utility's FERC-jurisdictional revenue requirement for the 2024-2026 period, reducing the total amount collected in the CPUC-jurisdictional revenue requirement.

9. On October 7, 2022, the Settling Parties jointly moved for approval of the Settlement regarding the structure and funding of liability insurance for third-party wildfire claims.

10. No party opposed the Settlement. This is not an all-party settlement, as it is filed by PG&E, TURN, and Cal Advocates.

Conclusions of Law

1. Hearings on the Settlement are not necessary.

2. The Settlement is consistent with PG&E's participation in the Wildfire Fund.

3. The Settlement of PG&E, Cal Advocates, and TURN is reasonable in light of the whole record, consistent with law, and in the public interest.

ORDER

IT IS ORDERED that:

1. The Settlement of Pacific Gas and Electric Company, the Public Advocates Office at the California Public Utilities Commission, and The Utility Reform Network dated October 7, 2022 is approved consistent with this decision.

2. To implement the Settlement, Pacific Gas and Electric Company (PG&E) shall file the following advice letters:

(a) Starting on or before April 1, 2024, 2025, and 2026, PG&E shall file a Tier 2 Advice Letter that includes the claims activity for the prior year and shows the calculation of the revenue requirement to be included in rates for the following year under the adjustment mechanism in Section 3.2.2 of the Settlement, effective January 1 of that year. To expedite the adjustment of the revenue requirement, PG&E may file a Tier 2 Advice Letter providing its best estimate of self-insurance costs for the year such that any adjustments to the revenue requirement may be implemented on January 1st of the following year or as soon as practicable thereafter. PG&E may also file two additional advice letters throughout the year to inform the Commission of material changes to self-insurance cost data. The advice letter process described in Section 3.7 of the Settlement will continue until modified by the next general rate case (GRC).

(b) PG&E may account for its shareholder annual deductible by offsetting the amount of the revenue requirement to be collected in a following year or by otherwise including the amount of the deductible as a credit to customers in the risk transfer balancing account (RTBA), at shareholder cost.

(c) At the end of the 2023 GRC period, PG&E may file a Tier 2 Advice Letter in accordance with Section 3.7.3 of the Settlement to true-up over and under collections described in the Settlement.

(d) The term of this Settlement is for the 2023 GRC period and may be extended into the 2027 GRC as set forth in Section 3.3.2 of the Settlement in a Tier 2 advice letter. In the first quarter of 2026, the Settling Parties shall meet to assess the operation of the self-insurance approach through the first three years of the 2023 GRC period, to discuss likely conditions as of the end of the GRC cycle and for the start of the 2027 GRC cycle, and to prepare a report of the foregoing for the 2027 GRC. PG&E shall file said report in its 2027 GRC application.

(e) PG&E shall file a Tier 2 advice letter to modify the terms of the RTBA consistent with the terms of the Settlement and to ensure funds deposited in the RTBA Wildfire Liability Self-Insurance Subaccount are only used to support the self-insurance mechanism approved in this decision within 30 days of the effective date of this decision.

3. Pacific Gas and Electric Company shall seek recovery of the portion of wildfire liability self-insurance that would be allocated to transmission customers through Federal Energy Regulatory Commission transmission owner rates in effect starting on January 1, 2024.

4. Application 21-06-021 remains open.

This order is effective today.

Dated _______________, at San Francisco, California.

APPENDIX 1

Document comparison by Workshare Compare on Tuesday, January 10, 2023 12:27:18 PM

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Document 1 ID	file://C:\Users\mef\Desktop\A2106021 DEANGELIS LARSEN PD 1-12 AGENDA (MAILING).docx
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Document 2 ID	file://C:\Users\mef\Desktop\(REV. 1) A.21-06-021 DECISION APPROVING SETTLEMENT REGARDING WILDFIRE LIABILITY INSURANCE COVERAGE.docx
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Rendering set	Standard

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Insertion	
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