

Decision **PROPOSED DECISION OF ALJ JUNGREIS (10/25/2024)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Set Wildfire Fund Non-Bypassable
Charge in 2024, 2025, and 2026.

Rulemaking 23-03-007

**DECISION ADOPTING TIMING AND AMOUNT OF
2025 WILDFIRE FUND NON-BYPASSABLE CHARGE**

Summary

This decision adopts a \$0.00595/kWh rate amount for the 2025 Wildfire Fund Non-Bypassable Charge in order to collect \$922.8 million from January 1, 2025, through December 31, 2025: this amount, accounting for the projected \$20.4 million under-collection from 2024, will result in the Wildfire Fund Non-Bypassable Charge \$902.4 million annual revenue requirement for 2025.

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'¹ exposure to financial liability, and ratepayer costs.² On

¹ In this decision, the terms "utility" and "electrical corporation" are used interchangeably.

² For the legislative intent of AB 1054 referred to here, *see* Stats. 2019, ch. 79, § 1(a).

July 12, 2019, the Governor signed AB 1054.³ Public Utilities (Pub. Util.) Code Sections 1701.8 and 3280 *et seq.* define the Wildfire Fund, and Pub. Util. Code Section 3289 directed the California Public Utilities Commission (Commission) to consider whether it should exercise its authority to require certain electrical corporations to collect from ratepayers a non-bypassable charge to support California's new Wildfire Fund.

On July 26, 2019, in response to Pub. Util. Code Section 3289, the Commission issued Order Instituting Rulemaking (R.) 19-07-017. On October 24, 2019, as a result of the R.19-07-017 proceeding, the Commission adopted Decision (D.) 19-10-056. That decision found that the imposition of a Wildfire Fund Non-Bypassable Charge (WF NBC) as contemplated by AB 1054 was just and reasonable.

On July 16, 2020, the Commission adopted D.20-07-014. That decision considered and approved servicing orders between the large electrical corporations and the California Department of Water Resources (DWR or Department). The servicing orders approved by that decision allow the large electrical corporations to act as agents of DWR and collect and remit to DWR the proceeds of the WF NBC in order to assure that those monies will be available to carry out the uses outlined in AB 1054.

On September 24, 2020, the Commission adopted D.20-09-023, which considered and approved the amount of the initial WF NBC. The decision directed the large electrical corporations -- San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), and Southern California Edison Company (SCE) (jointly identified here as the investor-owned utilities, or

³ Companion bill AB 111 (Ch. 81, Stats. 2019) was also enacted.

IOUs) -- to begin charging eligible electricity customers a WF NBC. The WF NBC rate for the year 2020, beginning October 1, 2020, and running through to December 31, 2020, was set in the amount of \$0.00580/kilowatt-hour (kWh).

On December 21, 2020, the Commission adopted D.20-12-024. That decision set the WF NBC rate amount for the year 2021, and also closed R.19-07-017. The decision set the WF NBC rate for the year 2021, beginning January 1, 2021, and running through to December 31, 2021, in the amount of \$0.00580/kWh for eligible electricity customers, and also directed a new Rulemaking proceeding be initiated to set the WF NBC rate amount in 2022 and 2023.

On March 10, 2021, the Commission issued Order Instituting Rulemaking (R.) 21-03-001. On June 8, 2021, the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Memo) that set forth the issues and schedule for that proceeding and determined that an evidentiary hearing was not necessary. R.21-03-001 is responsive to the procedure established in D.20-12-024 to set the WF NBC rate amount for 2022 and 2023.

On December 6, 2021, the Commission adopted D.21-12-006, which considered and approved the amount of the 2022 WF NBC. The decision directed the IOUs to charge eligible electricity customers a WF NBC for the year 2022. The decision set a WF NBC rate, beginning January 1, 2022, and running through to December 31, 2022, in the amount of \$0.00652/kWh.

On December 6, 2022, the Commission adopted D.22-12-007, which considered and approved the amount of the 2023 WF NBC. The decision directed the IOUs to charge eligible electricity customers a WF NBC for the year 2023. The decision set a WF NBC rate, beginning January 1, 2023, and running through to December 31, 2023, in the amount of \$0.00530/kWh.

D.22-12-007 also directed the closure of proceeding R.21-03-001. It further directed a new Rulemaking proceeding be initiated to set the WF NBC rate amount in 2024, 2025, and 2026.

On March 16, 2023, the Commission issued Order Instituting Rulemaking (R.) 23-03-007 (the present proceeding). On May 22, 2023, the assigned Commissioner issued a Scoping Memo that set forth the issues and schedule for this proceeding, and determined that an evidentiary hearing was not necessary. R.23-03-007 is responsive to the procedure established in D.20-12-024 to set the WF NBC rate amount for 2024, 2025, and 2026.

On September 8, 2023, the assigned Administrative Law Judge (ALJ) issued a Ruling containing DWR's 90-day Notice for the Commission to adopt a proposed 2024 WF NBC rate to be charged by the IOUs to eligible electricity customers. No parties had commented upon the Ruling. On December 4, 2023, the Commission issued Decision (D.)23-11-090, adopting a 2024 WF NBC in the amount of \$0.00561/kWh in order to collect a total revenue requirement of \$889 million,⁴ to be charged by the IOUs to eligible customers, beginning January 1, 2024, and running through December 31, 2024.

On September 6, 2024, the assigned ALJ issued a Ruling containing DWR's 90-day Notice for the Commission to adopt a proposed 2025 WF NBC rate to be charged by the IOUs to eligible electricity customers. The 90-day Notice proposed a 2025 WF NBC in the amount of \$0.00601/kWh in order to collect a

⁴ The statutory annual necessary revenue requirement is \$902.4 million: DWR projected that there would be a carry-over of \$13.4 million from excess collections through 2023, which explains the 2024 \$889 million collection figure.

total revenue requirement of \$930.1 million,⁵ to be charged by the IOUs to eligible customers, beginning January 1, 2025, and running through December 31, 2025. No parties had commented upon the Ruling.

On October 7, 2024, DWR sent the Commission a 60-day Notice regarding the 2025 WF NBC. DWR updated its calculations found in the 90-day Notice and asked the Commission to adopt a 2025 WF NBC in the amount of \$0.00595/kWh. DWR calculated this figure in order to collect a total 2025 WF NBC revenue requirement of \$922.8 million in 2025, including the statutory requirement of \$902.4 million and accounting for an accumulated 2024 under-collection of \$20.4 million. DWR proposed that the 2025 WF NBC in the amount of \$0.00595/kWh would be charged by the IOUs to eligible customers beginning January 1, 2025, and running through December 31, 2025.

With the DWR's 60-day Notice, the record was closed and the matter submitted on October 7, 2024.

2. Issues Before the Commission

As defined in the May 22, 2023, Scoping Memo, this proceeding is solely intended to consider the amount of the WF NBC in 2024, 2025, and 2026. For this year's iteration, and in keeping with the DWR Notices, this proceeding considers the revenue requirement and rate amount of the WF NBC for 2025.

3. Discussion

3.1. History of the WF NBC

The imposition of the WF NBC was found to be just and reasonable by the Commission in D.19-10-056.⁶ That decision held that the WF NBC is to be

⁵ The statutory annual necessary revenue requirement is \$902.4 million: DWR's 90-day Notice projected that there would be a need to collect an additional \$27.7 million due to under-collection through 2024, which explains the 2025 \$930.1 million collection figure.

⁶ D.19-10-056, Conclusion of Law 21.

collected on a dollar per kWh basis to ensure consistency with AB 1054,⁷ and that the combined annual revenue requirement for the WF NBC is to be \$902.4 million.⁸ D.19-10-056 also adopted a Rate Agreement between the Commission and DWR that bound the Commission to calculate, revise from time to time, and impose a WF NBC sufficient to fund at all times the \$902.4 million annual revenue requirement.

D.19-10-056 directed a process to enable an annual proceeding to establish an annual WF NBC determination process.⁹ For the purpose of considering the 2025 WF NBC, this decision adopts a process similar to that used to consider the prior years' WF NBCs, namely the submission of DWR Notices to the Commission before the imposition of the WF NBC for 2025, which contain the following elements:

- The revenue requirement for the WF NBC for the year 2025.
- The electricity sales forecast for all anticipated participating large electrical corporations for 2025, including analysis and determination of forecast and actual over-collection or under-collection for 2024.
- DWR's calculation of the resulting 2025 WF NBC rate amount for eligible electricity customers subject to the WF NBC pursuant to D.19-10-056.

The process outlined above is a reasonable way to calculate and approve the amount of the WF NBC for 2025 and for future years, based upon the direction found in D.19-10-056. This proceeding will consider this year's DWR 90-day Notice and 60-day Notice. The 60-day Notice fits the description

⁷ D.19-10-056 at 25.

⁸ D.10-10-056, Ordering Paragraph 3.

⁹ D.19-10-056 at 32.

provided in the paragraph above and provides adequate information to determine the appropriate rate amount for the 2025 WF NBC.

Generally stated, DWR calculates the annual WF NBC rate to achieve the annual \$902.4 million revenue requirement based both on submissions from the IOUs and on its own information regarding its actual WF NBC collections. DWR also tracks under-collection or over-collection amounts remitted to it for each year, and uses this information as an additional component of its proposed WF NBC rate amount for the ensuing year. Based upon all of this information, DWR then calculates and proposes the WF NBC rate amount for the ensuing year, as stated in its annual 90-day Notice and 60-day Notice to the Commission and to the Service List in this proceeding.

Based upon DWR's accounting, the need to square the accounting from the date of AB 1054's authorization, and to account for prior periods of under-collection and over-collection, the WF NBC rate in part of 2020 and in 2021 was \$0.00580/kWh, in 2022 it was \$0.00652/kWh, in 2023 it was \$0.00530/kWh, and in 2024 it was \$0.00561/kWh.

3.2. DWR's 60-day Notice for 2025 WF NBC

On October 7, 2024, DWR sent its 60-day Notice to the Commission and to this proceeding's Service List. It proposes that the Commission set the 2025 WF NBC at a level of \$0.00595 per kWh to collect a 2025 revenue requirement of \$922.8 million, which, combined with the projected cumulative under-collection of \$20.4 million, will generate the \$902.4 million annual revenue requirement called for through operation of AB 1054.¹⁰ The 60-day Notice's \$0.00595/kWh rate proposal is a slight increase from the \$0.00561/kWh rate set in 2024 (the

¹⁰ DWR 60-day Notice, *passim*.

annual variability is primarily due to cumulative WF NBC over-collection or under-collection, and secondarily due to annual change in projected electricity sales forecasts). DWR's 60-day Notice also provided a detailed accounting for the year 2024.

The following are excerpts from DWR's 60-day Notice:

Background on Assembly Bill 1054 (AB 1054)

AB 1054 effectuated the end of the DWR Bond Charge for the Power Supply Revenue Bonds (PSRB). It established the DWR Charge Fund and instituted the Wildfire NBC by directing the CPUC, through the IOUs, to impose and collect Wildfire NBCs for deposit into the DWR Charge Fund in the same manner the DWR Bond Charge was imposed and collected for the PSRBs. The Wildfire NBC Revenue Requirement should equal the average annual amount of DWR Bond Charges for the PSRBs collected from January 1, 2013, through December 31, 2018, which is \$902.4 million per year...

Revenue Sufficiency

In respect to the Wildfire NBCs, in the Wildfire Rate Agreement DWR agrees to cooperate with and assist the CPUC in its determination, at least annually, of the Wildfire NBCs. Pursuant to Section 3289 of the Public Utilities Code, the CPUC is required to impose Wildfire NBCs in an amount sufficient to fund the Revenue Requirement for each Revenue Requirement Period, or the first and last Revenue Requirement Period, which is the pro rata portion thereof for such period...

The revenue projections and actuals compared to the Revenue Requirement are illustrated in... the table below.[Footnote: The data for 2024 represents the receipt of the actual Wildfire NBCs through August 31, 2024 and projected NBCs for the remainder of 2024]...

Year	Projected and Actuals NBCs (\$millions)	Revenue Requirement NBCs (\$millions)	Over/(Under) Collections (\$millions)	NBC rates
2020	140.6	225.6	(85.0)	\$5.80 per MWh
2021	894.7	902.4	(7.7)	\$5.80 per MWh
2022	1,051.2	902.4	148.8	\$6.52 per MWh
2023	855.8	902.4	(46.6)	\$5.30 per MWh
2024	872.5	902.4	(29.9)	\$5.61 per MWh
2025	922.8	902.4	20.4	\$5.95 per MWh
Total	4,737.6¹¹	4,737.6		

Calculation of Wildfire Nonbypassable Charge

In this 60-day Notice, DWR is conveying to the CPUC its calculation of the Wildfire NBC for 2025 based on the following: (1) projected prior-period collection of the Revenue Requirement consistent with Decision 19-10-056, the Wildfire Rate Agreement, and AB 1054; (2) electricity sales forecast for all IOUs for the remainder of 2024 and 2025; and (3) DWR's calculation of the resulting Wildfire NBCs for ratepayers, subject to the Wildfire NBCs pursuant to Decision 19-10-056...

For the period beginning January 1, 2025, through December 31, 2025, DWR sends notice to the CPUC to direct the IOUs to initiate the Wildfire NBC of \$5.95 per MWh (\$0.00595 per kWh) on all non-exempt load delivered to ratepayers in the IOUs' service areas beginning on January 1, 2025, to collect the

¹¹ Numbers may not add exactly due to rounding.

\$902.4 million annual Revenue Requirement pursuant to Decision 19-10-056, reflecting the prior-period collection variance as required by the Act and described in D.19-10-056.¹²

Assumptions Used in Calculating the Wildfire NBC

DWR sent data requests to the IOUs on July 2, 2024, and received responses to its data requests on July 23, 2024. The responses provided forecasted load at the customer meter for bundled load, direct access load, and community choice aggregation load, with additional details for the load in these categories that would not be exempt from the Wildfire NBCs. Additionally, the IOUs were requested to provide an estimate of other departing loads: municipal departing load, customer-generated departing load, and other departing load that could be classified as distributed generation. DWR reviewed these forecasts and compared them with past actual loads...

To determine the 2025 Wildfire NBCs needed, DWR uses a collection curve which accounts for the lag between the time of the imposition of Wildfire NBCs on customer bills and the customer cash remittances received by DWR. The monthly non-exempt loads forecasted to be billed to customers each month are multiplied by an assumed Wildfire NBC, resulting in a forecasted remittance accrual. This accrual amount is then reduced by a forecasted uncollectible factor. On average, the time between the imposition of charges and the collection of revenues from such charges is approximately 30 days. Using both the collection curve and the uncollectible factor, the Department then calculates the Wildfire NBC that produces \$902.4 million plus any over or under-collection in prior periods that is projected to be sufficient, on a cash basis, to meet the Revenue Requirement as specified in the Act.

¹² The 2025 Wildfire NBC is projected to collect \$922.8 million, which is \$20.4 million more than the \$902.4 million Revenue Requirement due to the net \$20.4 million under-collection projected by year-end 2024. The net \$20.4 million projected under-collection is due to 2023 actuals collecting \$3.9 million less than projected, and a projected 2024 under-collection of \$16.5 million. (footnote as in original)

Revenue Sufficiency Process

As previously noted, DWR concurs in the Wildfire Rate Agreement respective to the Wildfire NBCs, to cooperate with and assist the CPUC in its determination, at least annually, of the Wildfire NBC. Under Section 3289 of the Public Utilities Code, the CPUC is required to impose Wildfire NBCs in an amount sufficient to fund the Revenue Requirement for each Revenue Requirement Period, or the first and last Revenue Requirement Period, the pro rata portion thereof for such period.

3.3. Analysis of DWR's 60-day Notice for 2025 WF NBC

In review of the detailed contents of DWR's 60-day Notice, it is clear that DWR projected the 2025 WF NBC amount using estimates of the eligible kWh sales expected during 2025 and cumulative WF NBC under-collection from past years. Thus, the effort is to address, in 2025, the need to establish a WF NBC amount that provides a sufficient revenue requirement by the end of 2025, as intended by Pub. Util. Code Section 3289.

The 2025 sales estimates were based upon the results of data provided by the IOUs. The responses to the data requests provide forecasted load at the customer meter for bundled load, direct access load, and community choice aggregation load with additional details for the load in these categories that would not be exempt from the WF NBC.

DWR calculated the amount of the WF NBC in 2025 by using a "collection curve methodology." DWR reported that it took the estimated eligible kWh sales for 2025 provided to DWR by the IOUs, and then multiplied that figure by an assumed WF NBC amount to determine a forecasted remittance accrual, and then reduced this accrual amount by a forecasted uncollectible factor. The

resulting net remittance accrual amount was then projected to be received as cash 30 days later by DWR.

DWR also took into consideration past under-collections and over-collections from prior years. The projected total \$20.4 million net under-collection through 2024 accounts for the difference between the proposed 2025 WF NBC collection of \$922.8 million and the \$902.4 million annual revenue requirement adopted in D.19-10-056 pursuant to AB 1054.

In its 60-day Notice, DWR restated its obligation under the Rate Agreement to notify the Commission each year regarding the annual collections received by DWR with respect to the WF NBC revenue requirement and the amount of excess or deficiency in collections above or below the revenue requirement. The 60-day Notice also points out that under the terms of the Rate Agreement, the Commission will undertake within 60 days to adjust the WF NBC in the subsequent year to reflect any excess or deficiency reported by DWR.¹³ In short, the Commission must act promptly in issuing this decision to provide the necessary direction regarding the setting of the 2025 WF NBC.

3.4. Approval of 2025 WF NBC and IOU Implementation

DWR's 60-day Notice provides the revenue requirement for the WF NBC for the year 2025, the electricity sales forecast for the IOUs for 2025, and DWR's calculation of the resulting 2025 WF NBC rate amount for eligible customers subject to the WF NBC pursuant to D.19-10-056. Therefore, DWR's 60-day Notice provides the Commission with sufficient information to set the WF NBC rate amount for 2025. In light of the reasonableness of the information submitted by DWR, this decision finds that it is reasonable to set the 2025 WF NBC rate

¹³ DWR 60-day Notice at 3-4.

amount as \$0.00595/kWh, and the IOUs shall charge this WF NBC rate amount during 2025 to eligible customers subject to the WF NBC as defined in D.19-10-056.

By no later than December 31, 2024, each of the IOUs shall file a Tier 1 Advice Letter with the Commission's Energy Division to implement the 2025 WF NBC rate amount as described in this decision.

4. Comments on Proposed Decision

The proposed decision of co-assigned ALJs Brandon Gerstle and Jason Jungreis 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. No comments were filed on November 14, 2024, as such, no modifications to the proposed decision were made.

5. Assignment of Proceeding

President Alice Reynolds is the assigned Commissioner and Brandon Gerstle and Jason Jungreis are the assigned ALJs in this proceeding.

Findings of Fact

1. The annual revenue requirement adopted by D.19-10-056 for the WF NBC is \$902.4 million.
2. The net under-collection for the WF NBC from prior years totals a projected \$20.4 million.
3. The total 2025 WF NBC collection revenue requirement is \$922.8 million.
4. The data provided by DWR to calculate the 2025 WF NBC may be relied upon by the Commission to adopt the 2025 WF NBC and set the 2025 WF NBC rate amount to be collected from eligible electricity customers.

5. DWR has proposed a 2025 WF NBC rate amount of \$0.00595/kWh, to be collected from January 1, 2025, to December 31, 2025, which DWR projects to be sufficient to fund the WF NBC revenue requirement by the end of 2025.

Conclusions of Law

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

2. The WF NBC is to be collected from eligible electricity customers on a dollar per kWh basis to ensure consistency with AB 1054.

3. DWR's 60-day Notice provides the Commission with sufficient information to set the revenue requirement for the WF NBC for 2025.

4. It is reasonable to set the WF NBC rate amount as \$0.00595/kWh for 2025.

5. Pursuant to the R.23-03-007 Order Instituting Rulemaking, this proceeding is to remain open through 2025 to enable WF NBC collection through 2026.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company shall charge the Wildfire Fund Non-Bypassable Charge to eligible customers as defined by Decision 19-10-056 from January 1, 2025, to December 31, 2025, in the amount of \$0.00595 per kilowatt-hour.

2. Southern California Edison Company shall file a Tier 1 Advice Letter with the Commission's Energy Division implementing the 2025 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than December 31, 2024.

3. San Diego Gas & Electric Company shall charge the Wildfire Fund Non-Bypassable Charge to eligible customers as defined by Decision 19-10-056

from January 1, 2025, to December 31, 2025, in the amount of \$0.00595 per kilowatt-hour.

4. San Diego Gas & Electric Company shall file a Tier 1 Advice Letter with the Commission's Energy Division implementing the 2025 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than December 31, 2024.

5. Pacific Gas and Electric Company shall charge the Wildfire Fund Non-Bypassable Charge to eligible customers as defined by Decision 19-10-056 from January 1, 2025, to December 31, 2025, in the amount of \$0.00595 per kilowatt-hour.

6. Pacific Gas and Electric Company shall file a Tier 1 Advice Letter with the Commission's Energy Division implementing the 2025 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than December 31, 2024.

7. Rulemaking 23-03-007 remains open.

This order is effective today.

Dated _____, 2024, at Sacramento, California.