

Decision 25-01-042 January 30, 2025

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U338E) for Authority to Recover Costs Related to the 2017 Thomas Fire and 2018 Debris Flow Events Recorded in the Wildfire Expense Memorandum Account and Catastrophic Event Memorandum Account.

Application 23-08-013

**DECISION REGARDING SETTLEMENT AGREEMENT  
AUTHORIZING COST RECOVERY FOR 2017 THOMAS  
FIRE AND 2018 MONTECITO DEBRIS FLOW**

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Attachment A : Settlement Agreement

**DECISION REGARDING SETTLEMENT AGREEMENT  
AUTHORIZING COST RECOVERY FOR 2017 THOMAS  
FIRE AND 2018 MONTECITO DEBRIS FLOW**

**Summary**

This decision adopts the amended Settlement Agreement between Southern California Edison Company (SCE) and the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) at Attachment A to this decision (the Settlement Agreement), subject to the modification discussed below, resolving all issues in this proceeding related to SCE's request to recover costs recorded in its Wildfire Expense Memorandum Account regarding the 2017 Thomas Fire and the 2018 Montecito debris flows, as well as costs recorded in SCE's Catastrophic Event Memorandum Account. The essential settlement terms are that SCE shall with respect to the following categories:

1. Wildfire Expense Memorandum Account (WEMA) and Catastrophic Event Memorandum Account (CEMA):
  - a. Recover (i) 60% of the amounts recorded in WEMA through May 31, 2024 (about \$1.627 billion of the approximately \$2.712 billion total), and (ii) 85% of the amounts recorded in CEMA (about \$55.228 million of the \$64.974 million), for a permanent disallowance of about \$1.094 billion;
  - b. File a separate application seeking Commission approval to finance WEMA costs through the issuance of recovery bonds, and recover CEMA costs through normal course cost recovery upon submission of a Tier 1 Advice Letter; and
2. Trailing Costs: Seek rate adjustments for Trailing Costs (WEMA-eligible claims costs incurred after May 31, 2024) by one or more Tier 2 Advice Letters subject to the same agreed upon recovery and permanent disallowance

percentages (60% recovery/40% disallowance) except for: (a) the first \$125 million (to account for the provisions of an Administrative Consent Order) and (b) SCE cross-claims related to the Montecito debris flows (with 60% of any recoveries refunded to customers and 75% of prospective legal fees recoverable from ratepayers).

Instead of the Settlement Agreement provision regarding shareholder funds for vaguely defined system enhancements that may be selected, in part, through collaboration and consensus between the Settling Parties, this decision proposes that SCE shall apply \$50 million in shareholder funds (at a rate of \$10 million per calendar year) as a reduction to the wildfire mitigation costs that SCE records in its authorized wildfire memorandum accounts (for years 2024-2028) . This proceeding is closed.

## **1. Background**

### **1.1. 2017 Thomas Fire and 2018 Montecito Debris Flows**

The Thomas Fire began on December 4, 2017, resulting from two separate ignitions in Santa Paula, California. The first ignition occurred in Anlauf Canyon at 6:17 p.m. The second ignition occurred on Koenigstein Road at approximately 7:27 p.m. The two merged within hours and became known as the Thomas Fire. According to the California Department of Forestry and Fire Protection (Cal Fire), the Thomas Fire burned more than 280,000 acres, destroyed or damaged an estimated 1,343 structures, and resulted in two fatalities.

In January 2018, while the Thomas Fire was still burning, heavy rainfall from an intense storm led to debris flows in Montecito, California. The heavy rainfall dislodged mud and boulders due in part to the effects of the Thomas Fire

on vegetation and soil. The debris flows caused significant damage and resulted in 23 fatalities.

Following the Thomas Fire and Montecito debris flows, more than 5,800 individual claimants, more than 300 subrogation plaintiffs, and 15 public entities brought claims against Southern California Edison Company (SCE). SCE settled all but a small number of these claims. In managing and resolving these claims, SCE also recorded outside legal fees and financing costs.

SCE recorded in its Wildfire Expense Memorandum Account (WEMA) the payments to satisfy claims (including any co-insurance, deductibles, and other insurance expenses paid by SCE), outside legal expenses and costs, and associated financing costs. The WEMA costs are net of about \$1 billion received from insurance or other third parties.

SCE recorded in its Catastrophic Event Memorandum Account (CEMA) its incremental restoration-related costs associated with the Thomas Fire. These costs were incurred in order to quickly and efficiently restore service for customers and to repair, replace, or restore utility facilities damaged by the fire.

## **1.2. Prior Commission Determinations**

Decision (D.) 21-08-024 found costs associated with the Thomas Fire to be eligible for CEMA recovery (i.e., costs were properly associated with catastrophic events and incremental to amounts already authorized in SCE's general rate case). The Commission, however, deferred its determination as to whether cost recovery was just and reasonable pending evaluation of the prudence of SCE's conduct related to the Thomas Fire.

On October 21, 2021, SCE and the Commission's Safety and Enforcement Division (SED) executed an administrative consent order (ACO) to resolve allegations that SCE violated certain rules and regulations with respect to the Thomas Fire, Montecito debris flows, and other fires in 2017-18. The Commission approved the ACO on December 16, 2021.<sup>1</sup> The ACO requires that SCE permanently waives its right to seek cost recovery for \$125,000,000 of claims related to the Thomas Fire.

### **1.3. Procedural Background**

On August 22, 2023, SCE filed A.23-08-013 for authority to recover in rates the costs recorded in SCE's WEMA and CEMA related to the Thomas Fire and Montecito debris flows. SCE sought recovery of approximately \$2.407 billion in WEMA costs recorded through July 2023 (net of insurance recoveries) and approximately \$65 million in restoration-related costs (comprising \$62.651 million in capital costs and \$2.323 million in capital-related expenses) recorded in CEMA. The total WEMA/CEMA request was about \$2.472 billion.

On September 21, 2023, a response was filed by the Center for Accessible Technology (CforAT). On September 25, 2023, protests were filed by The Utility Reform Network (TURN), Wild Tree Foundation (Wild Tree), and the Public Advocates Office at the California Public Utilities Commission (Cal Advocates). Motions for party status were granted by Ruling on November 16, 2023, for San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), and the City of Rancho Palos Verdes. On November 28, 2023, assigned

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<sup>1</sup> Resolution SED-5; also revised resolution, Resolution SED-5A, approved by the Commission on July 15, 2022.

Administrative Law Judge (ALJ) John Larsen held a prehearing conference that was attended by SCE, CforAT, TURN, Wild Tree, Cal Advocates, PG&E, and SDG&E.

On February 6, 2024, President Alice Reynolds issued the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo), identifying scoped issues and setting an initial schedule. The Scoping Memo determined that hearing all issues in a single phase, rather than in multiple phases, was a reasonable approach that could expedite resolution of the proceeding, subject to a second phase if necessary. The schedule provided for the service of intervenor testimony, rebuttal testimony, and either a joint motion for approval of a settlement or a status conference statement with witness lists. It also set dates for a hearing status conference, and evidentiary hearing (from August 20 to August 22, 2024).

SCE submitted prepared testimony with its application. On June 6, 2024, Cal Advocates submitted prepared testimony. No other party submitted prepared testimony.

On July 11, 2024, SCE submitted prepared rebuttal testimony. In its rebuttal, SCE updated its request for WEMA costs to approximately \$2.711 billion for claims through May 2024. Adding the approximately \$65 million CEMA request, this brought the total WEMA/CEMA request to about \$2.776 billion.

On July 1, 2024, ALJ Larsen issued an email ruling that 1) suspended the proceeding schedule, and 2) set an August 7, 2024 deadline for SCE to file either a motion for approval of a settlement or a case management statement. The

Ruling also provided that evidentiary hearings would be set for later in the year if parties were unable to settle disputed issues by August 7, 2024. On August 5, 2024, ALJ Larsen issued an email ruling granting an SCE motion to suspend the August 7, 2024, deadline, and set September 7, 2024, as the new deadline for the filing of either a motion for approval of a settlement or a case management statement.

SCE and Cal Advocates (Settling Parties) met over the course of nearly three months to explore settlement given the extensive record developed by SCE and Cal Advocates. On July 29, 2024, pursuant to Rule 12.1(b) of the Commission's Rules of Practice and Procedure (Rules), SCE gave notice to all parties of a settlement conference. On August 5, 2024, the Settling Parties convened the settlement conference with the following parties in attendance: SCE, Cal Advocates, TURN, and the City of Rancho Palos Verdes. On August 28, 2024, a settlement agreement was finalized and executed by the Settling Parties.

On August 29, 2024, SCE and Cal Advocates filed a Joint Motion for Approval of a Settlement Agreement (Joint Motion), with the August 28 settlement agreement attached. On September 30, 2024, Wild Tree filed comments in opposition to the proposed settlement. On October 15, 2024, SCE and Cal Advocates filed joint reply comments.

On October 24, 2024, the ALJs issued an e-mail ruling directing the Settling Parties to serve additional evidence to address amortization and rate recovery of WEMA costs, which was timely provided on November 4, 2024. In the same

response, the Settling Parties included an amendment and restatement of Section F.1.A of the August 28, 2024 settlement agreement to provide clarifying changes regarding the method of recovery for WEMA amounts should SCE's anticipated securitization application be denied. The operative Settlement Agreement at Attachment A to this decision is an integrated, clean copy of the unaltered sections of the settlement agreement first executed on August 28, 2024, and the amended Section F.1.A that was executed and filed on November 4, 2024..

By ALJ Ruling dated November 26, 2024, the unopposed Joint Motion of SCE and Cal Advocates to offer prepared exhibits into evidence was granted.

#### **1.4. Submission Date**

This matter was submitted on November 26, 2024 upon the granting of the Joint Motion of SCE and Cal Advocates to offer prepared exhibits into evidence.

## **2. Issues To Be Decided and Standard of Review**

The proposed Settlement Agreement resolves the issues stated in the Scoping Memo.<sup>2</sup> The Commission has long favored the settlement of disputes.

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<sup>2</sup> The Scoping Memo states the following six issues to be considered in this proceeding:

1. Whether SCE's design, construction, operation, engineering, and maintenance of any facilities alleged to have been involved in the ignition of the fires at issue was prudent;
2. Whether SCE should be authorized to recover the costs sought in the Application;
3. Whether SCE's actions in connection with settling of legal claims arising from the Events were reasonable;
4. Whether SCE's legal costs paid in defense of claims arising from the Events were reasonable;

*Footnote continued on next page.*

This policy supports many worthwhile goals. These goals include reducing litigation costs, conserving scarce resources of parties and the Commission, and allowing parties to reduce the risk that litigation will produce unacceptable results.<sup>3</sup>

Although the Commission favors settlements, all matters decided by the Commission must meet the overall just and reasonable standard of the Public Utilities (Pub. Util.) Code.<sup>4</sup> The Commission considers whether a settlement is just and reasonable based on the agreement as a whole, not on individual provisions:

In assessing settlements, we consider individual settlement provisions but, in light of strong public policy favoring settlements, we do not base our conclusion on whether any single provision is the optimal result. Rather, we determine

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5. Whether SCE's financing costs (on claims and legal costs paid as of July 31, 2023) incurred as of July 31, 2023, and to be incurred from August 2023 until costs are recovered from customers or a financing is in place, are reasonable; and
  6. Whether SCE's cost recovery proposal should be adopted, including its proposal to credit any amounts SCE recovers pursuant to its cross-complaint against certain public entities relating to the debris flows at the appropriate time and its proposal to submit an advice letter after a final decision issues providing a final accounting of costs associated with the small number of claims outstanding, including associated legal fees and financing costs, which will be reduced by \$125 million in claims recovery consistent with SCE's obligations under the Administrative Consent Order (ACO) entered into between SCE and the Commission's Safety and Enforcement Division in connection with the Anlauf ignition and certain other fires.<sup>2</sup>

<sup>3</sup> D.05-03-022 at 9; D.14-12-040 at 15; D.10-06-031 at 12; D.23-11-069 at 752.

<sup>4</sup> Pub. Util. Code § 451 requires that all public utility charges "shall be just and reasonable" and that every "unjust and unreasonable charge...is unlawful."

whether the settlement as a whole produces a just and reasonable outcome.<sup>5</sup>

The Commission may only adopt a settlement after determining whether the settlement satisfies the three-prong test of Rule 12.1(d). Rule 12.1(d) states:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

To approve a settlement the Commission must also find that the settling parties had a sound and thorough understanding of the application, and all the underlying assumptions and data included in the record.<sup>6</sup>

Finally, when a settlement is contested, as here, the Commission engages in a closer review of the settlement compared to an all-party settlement:

Central to our analysis here, where the proposed settlement is contested, is the relevant objections or concerns of opposing parties and the questions of whether the settlement agreement provides a negotiated resolution of all the disputed issues.<sup>7</sup>

### **3. Settlement Agreement, Comments in Opposition, and Reply Comments**

#### **3.1. Settlement Agreement**

The Settlement Agreement comprehensively addresses the proceeding and the agreement between the Settling Parties. It includes the procedural history and Cal Advocates' engagement, along with a description of the Thomas Fire and Montecito debris flows. It also includes a summary of the testimony,

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<sup>5</sup> D.12-03-015 at 19.

<sup>6</sup> D.23-11-069 at 752-753.

<sup>7</sup> D.16-12-065 at 7.

settlement activity, a summary of the areas of agreement and disputes regarding the factual record, the agreed resolution of issues, and additional terms (e.g., tax and capital structure treatment, confidentiality, and term of agreement). A brief description of the key issues in the Settlement Agreement follows.

### **3.1.1. Cost Recovery and Disallowance**

#### **3.1.1.1. WEMA**

SCE is authorized to recover 60% of the WEMA balance through May 31, 2024 (about \$1.627 billion of the approximately \$2.712 billion total). The remaining 40% will be permanently disallowed (about \$1.085 billion). SCE shall file a separate application seeking Commission approval to finance the authorized WEMA costs through the issuance of recovery bonds. If the separate application for recovery bonds is denied, SCE will amortize the approximately \$1.627 billion over 5 years financed using long-term debt.<sup>8</sup> Under either method of recovery, SCE is authorized to permanently exclude from its ratemaking capital structure the debt issued to finance the WEMA costs.<sup>9</sup>

#### **3.1.1.2. CEMA**

SCE is authorized to recover 85% of the CEMA balance (about \$55.253 million of the \$62.651 million in capital costs requested and about \$1.975 million of the \$2.323 million in capital-related expense requested). The remaining 15% will be permanently disallowed (about \$9.746 million). SCE shall file a Tier 1 Advice Letter to recover the authorized CEMA amount through normal course of cost recovery.

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<sup>8</sup> Joint Response by Settling Parties dated November 4, 2024 at 3.

<sup>9</sup> Joint Response by Settling Parties dated November 4, 2024 at 3.

### **3.1.1.3. Total WEMA/CEMA**

The total authorized WEMA recovery (through May 31, 2024) and CEMA recovery is about \$1.682 billion. The total permanent disallowance is about \$1.094 billion.

### **3.1.2. WEMA Trailing Costs**

SCE is authorized to seek rate adjustments for Trailing Costs (WEMA-eligible claims costs incurred after May 31, 2024) subject to the same agreed upon recovery and permanent disallowance percentages (60% recovery/40% disallowance) with two exceptions. The exceptions are: (a) a permanent disallowance of the first \$125 million (to account for the provisions of the ACO) and (b) SCE cross-claims related to the Montecito debris flows (with 60% of any recoveries refunded to customers and 75% of prospective legal fees recoverable from ratepayers).

SCE is authorized to seek WEMA trailing costs, once incurred, through one or more Tier 2 Advice Letters. SCE shall propose in each advice letter a method for recovery (e.g., either conventional expense recovery or financing through the issuance of recovery bonds). The Advice Letters shall also address any credits or recoveries for cross-claims stated above.

### **3.1.3. System Enhancements**

According to the terms of the proposed Settlement Agreement, SCE shall commit \$50 million of shareholder funds to System Enhancements. System Enhancements are defined as enhancements and/or initiatives, studies, pilots, programs, and processes designed to reduce the risk of wildfire and other safety incidents resulting from SCE's operation of its electrical system. Appendix A to

the Settlement Agreement provides some further detail, listing six potential System Enhancements (sensors; artificial intelligence and machine learning enhancements; drone enhancements; data enhancements; industry best practices study on relay settings; and root cause analysis). According to the terms of the proposed Settlement Agreement, SCE will have discretion to implement one or more of the potential System Enhancements described in Appendix A using up to \$25,000,000 of the \$50,000,000 commitment in the Settlement Agreement.

For potential System Enhancements not included in Appendix A, or described in Appendix A but in excess of \$25,000,000, selection and implementation of such System Enhancements will be made through collaboration and consensus between the Settling Parties. According to the terms of the Settlement Agreement, in the event that any of the \$50 million remains unspent within 5 years of the Commission's approval of the Settlement Agreement, or December 31, 2030, whichever is later, SCE will return the remainder to customers via SCE's Annual Electric True-Up Advice letter (unless otherwise agreed to by the Settling Parties). SCE shall submit annual reports to Cal Advocates regarding System Enhancements.

### **3.2. Comments by Wild Tree in Opposition**

In opposition to the Settlement Agreement, Wild Tree asserts that SCE has not met its burden of proof to show that its conduct was reasonable and prudent. Wild Tree also says the Settlement Agreement is not reasonable in light of the whole record, not consistent with the law, and not in the public interest. Wild

Tree urges the Commission to deny the motion for approval of the Settlement Agreement.

**3.3. Joint Reply Comments  
by Settling Parties**

The Joint Reply Comments of Settling Parties argue that Wild Tree misapplies the Commission's legal standard and precedents for reviewing settlements. The Settling Parties also contend that Wild Tree's public interest arguments are without merit.

**4. Adoption of Settlement  
Agreement with Modification**

An application must meet an initial burden of proof, or it is subject to dismissal without further consideration.<sup>10</sup> No party moved for dismissal of SCE's application on this ground. SCE's application satisfies this condition. Consideration of the application now proceeds to consideration of the proposed Settlement Agreement.

The Commission finds, as fully explained below, that the Settlement Agreement, subject to the modification discussed below, is reasonable in light of the whole record, consistent with law, and in the public interest. We considered and analyzed all relevant objections and concerns of Wild Tree. Based on the extensive record and number of data requests, we also find that the Settling Parties had a sound and thorough understanding of the application and all underlying assumptions and data. Therefore, the Commission adopts the Settlement Agreement as modified.

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<sup>10</sup> Commission Rules of Practice and Procedure Rule 11.2

#### **4.1. Reasonable in Light of the Whole Record**

##### **4.1.1. The Record is Extensive**

SCE submitted 11 chapters of prepared testimony sponsored by 30 witnesses, including 12 independent experts. SCE's testimony and associated attachments total over 700 pages. Cal Advocates (the only intervenor to serve testimony) submitted 10 chapters of prepared testimony sponsored by eight witnesses. Cal Advocates' testimony and associated attachments total approximately 2,500 pages. SCE's rebuttal included five chapters of prepared rebuttal testimony sponsored by several witnesses, including three new witnesses, totaling more than 230 pages with attachments. The Settling Parties' testimony was informed, in part, by the extensive discovery. This discovery included Cal Advocates' 58 sets of data requests to SCE containing over 440 questions (with more than 1,580 individual sub-parts), data requests served by Cal Advocates on SDG&E and PG&E with respect to related issues, and SCE's data requests to Cal Advocates.<sup>11</sup>

The approximately 3,500 pages to testimony sponsored by 41 witnesses address a wide range of factual and expert opinion issues.<sup>12</sup> These issues include: two separate ignition events with distinct alleged causes in different geographic locations; subsequent debris flow events approximately one month following the ignitions and the complex factors that led to those events and the resulting damage; SCE's work, and related costs incurred, to restore service to

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<sup>11</sup> Joint Motion at 8-9.

<sup>12</sup> Joint Motion at 19.

customers; SCE's resolution of various claims related to the Thomas Fire and Montecito debris flows, as well as related legal and financing fees; SCE's design, construction, and maintenance of its facilities; SCE's operational practices prior to and at the time of the Thomas Fire in a number of areas, including risk prioritization, maintenance notifications, wire-down analysis, and infrared inspections; and SCE's wildfire preparedness and use of public safety power shutoffs (PSPS) and fast-trip settings as wildfire mitigation measures.<sup>13</sup>

The testimony also shows wide areas of dispute. The disputed issues include: whether SCE equipment caused the Anlauf ignition; whether implementation of fast-trip settings could possibly have avoided the Koenigstein ignition; the reasonableness of SCE's wildfire preparedness; and the prudence of SCE's operations in areas such as risk prioritization and potential for improvements in particular programs such as infrared inspections and wire-down analysis.<sup>14</sup>

The Settlement Agreement embodies the product of substantial negotiation efforts on behalf of the Settling Parties. The ability to conduct successful negotiations was largely attributable to the magnitude of information and depth of analysis set forth in the record. The Settlement Agreement's key terms (i.e., 60% recovery and 40% permanent disallowance of SCE's WEMA costs; 85% recovery and 15% permanent disallowance of CEMA costs) are a compromise between the Settling Parties' litigation positions across this range of factual

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<sup>13</sup> Joint Motion at 19.

<sup>14</sup> Joint Motion at 20-21.

disputes within the extensive record. The compromise also recognizes varied considerations in assessing different categories of WEMA-eligible costs and the value to customers of the asset replacements through CEMA-eligible restoration work. Based on this, we find that the Settling Parties had a sound and thorough understanding of the record, including all underlying assumptions and data.

#### **4.1.2. Wild Tree Assertions**

Wild Tree asserts that the Settlement Agreement is not reasonable in light of the whole record. Wild Tree does not contend that the record fails to include material and relevant evidence, nor that the Settlement Agreement reaches conclusions that are outside the record. Rather, Wild Tree claims that “SCE has not met its burden of proof that its conduct was reasonable and prudent in regards to the Thomas Fire and Montecito Debris Flows and the Proposed Settlement should be denied.”<sup>15</sup> Wild Tree continues by saying SCE bears “...the burden of proof by a preponderance of the evidence and must therefore present more evidence that supports the requested result than would support an alternative outcome.”<sup>16</sup> That is, Wild Tree argues that SCE must meet the burden of proof necessary to prevail on its litigation position had the proceeding been litigated to a conclusion on the merits, and that the record evidence submitted by SCE fails to do so. We disagree because this is not the standard used by the Commission in our review of proposed settlements.

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<sup>15</sup> Wild Tree Comments at 3.

<sup>16</sup> Wild Tree Comments at 8 (citing D.17-11-003 at 10).

Longstanding Commission precedent holds that Commission review of a proposed settlement is “not to be turned into a...trial on the merits” and “must stop short of the detailed and thorough investigation that [the Commission] would undertake if it were actually trying the case.”<sup>17</sup> The Commission must allow parties to settle cases before all relevant issues have been fully litigated in order to meet the objectives of reducing litigation costs, conserving scarce resources, and allowing parties to reduce the risk that litigation may produce unacceptable results. As a result, Commission review need only “decide whether [each party’s] case has merit.”<sup>18</sup> The Commission is persuaded, as discussed more below, that the positions of both SCE and Cal Advocates had merit.

Wild Tree claims that SCE’s showing relies on:

... assertions that it was prudent in the design, construction, inspection, and maintenance of SCE's facilities, deployment of protective devices, and SCE's operations and wildfire mitigation measures...<sup>19</sup>

Wild Tree concludes that:

... SCE has not proven any of the elements of its case and has failed its burden to present more evidence that supports its requested result than would support an alternative result.<sup>20</sup>

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<sup>17</sup> D.88-12-083 at 55; also *see* D.00-09-034 at 20 (we “do not convert our settlement review into a full scale mini-hearing on the merits of the case.”)

<sup>18</sup> D.88-12-083 at 161.

<sup>19</sup> Wild Tree Comments at 14.

<sup>20</sup> Wild Tree Comments at 14.

The Commission finds otherwise. SCE's showing is more than assertions. It is supported by 16 chapters of prepared direct and rebuttal testimony sponsored by 33 witnesses, including 12 independent experts, and covering nearly 1,000 pages (with attachments). For its part, Cal Advocates' showing is supported by 10 chapters of prepared testimony sponsored by 8 witnesses covering approximately 2,500 pages (with attachments). Wild Tree does not move to exclude any evidence or discredit any witness. The extensive evidentiary record contains sufficient evidence for the Commission to determine the reasonableness of the Settlement Agreement. The settling parties reached agreement after the submission of lengthy testimony, extensive discovery, careful analysis of issues, and settlement discussions. The Commission has sufficient record to review the reasonableness of the settlement terms.

The Settlement Agreement resolves all issues presented to the Commission and does so within a range between the parties' positions. Therefore, the Commission finds that the Settlement Agreement, as modified herein, is reasonable in light of the whole record, and that Wild Tree fails to establish otherwise.

#### **4.2. In the Public Interest**

The Settlement Agreement, and the Commission's adoption thereof as modified herein, is in the public interest because it represents a fair and equitable resolution of all issues in a manner that benefits customers and the general public.

#### **4.2.1. Discussion**

Adoption of the Settlement Agreement is in the public interest for several reasons.

First, SCE agrees to a permanent disallowance of about \$1.095 billion (in addition to the \$125 million already waived under terms of the ACO). This is a significant and direct financial benefit to ratepayers. At the same time, no party disputes that the WEMA and CEMA costs were incurred by SCE in connection with its provision and restoration of electric service. The Settlement Agreement authorizes SCE to partially recover those costs. Further, resolving this proceeding now through settlement rather than a protracted litigated outcome minimizes the total amount of financing costs potentially subject to recovery from ratepayers. These financing costs are accruing at a rate of approximately \$7.5 million per month. Minimizing these costs saves costs that might otherwise be payable by ratepayers. Resolving this proceeding now may also contribute to improving SCE's credit metrics and financial health, which may permit more cost-effective access to capital that can also benefit SCE and its customers.

Second, the Commission's adoption of the Settlement Agreement resolves the numerous disputed issues of material fact without further litigation. This conserves the time and resources of the Commission and parties. It also returns about \$1.094 billion to ratepayers sooner rather than later.

Finally, approval of the Settlement Agreement signals a constructive regulatory framework by the Commission's respecting the arms-length, extensively negotiated outcome achieved by the two parties that actively engaged in and developed the record in this proceeding. As the first application

seeking recovery of wildfire claims costs since the Commission's decision in D.17-11-033 (denying SDG&E's request to recover WEMA costs arising from the October 2007 wildfires, as well as the enactment of Senate Bill 901 and Assembly Bill 1054), this proceeding has been a focus of the investment community and other stakeholders, and is viewed as an important indicator of the California regulatory environment. By resolving this proceeding in a reasonable, constructive, and mutually agreeable manner, the Settlement Agreement brings certainty to the outcome of this significant proceeding. Approval of the Settlement Agreement as presented and interpreted herein sends a positive signal regarding the cost recovery framework in California and thereby supports utility access to low-cost capital. Access to low-cost capital is essential for making the necessary investments to enhance safety and to achieve the State's ambitious clean energy goals, to the ultimate benefit of customers, the public, and the State.

#### **4.2.2. Arguments Against Adoption Fail**

Wild Tree argues that the Settlement Agreement is not in the public interest. In support, Wild Tree cites several factors used to determine if a settlement is fair, adequate, and reasonable. Wild Tree specifically identifies four items: the strength of the applicant's case; the risk, expense, complexity, and likely duration of further litigation; whether the major issues are addressed in the settlement; and the amount offered in settlement.<sup>21</sup> For the reasons stated below, the Commission is not persuaded by Wild Tree.

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<sup>21</sup> Wild Tree Comments at 13 (which cites "D.09-12-045 quoting D.88-12-083").

#### **4.2.2.1. Strength of Applicant's Case**

First, Wild Tree says SCE's case is weak. As discussed above, each party's position is reasonably grounded in the record and could ultimately be considered by the Commission if this case were fully litigated.

#### **4.2.2.2. Burden of Further Litigation**

Second, Wild Tree asserts that adoption of the Settlement Agreement will not substantially decrease the risk, expense, complexity, and likely duration of further litigation. According to Wild Tree, this proceeding has not been protracted and the record can be closed and submitted for a decision without a great amount of additional effort by the parties. Wild Tree concludes that consideration of the risk, expense, complexity and duration do not weigh in favor of settlement.<sup>22</sup> The Commission disagrees.

The record is extensive, and the number of complex disputed issues are many. Resolution of these issues by continued litigation will likely take significant additional time and effort by parties and the Commission. For example, rejecting the Settlement Agreement and continuing with litigation (even without hearings) will require adopting a schedule for the parties to prepare and file opening and reply briefs. That process may take an additional two months or more.<sup>23</sup> It will likely be another four months or more after receipt

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<sup>22</sup> Wild Tree Comments at 14-15.

<sup>23</sup> The schedule in the Scoping Memo provided about 2 months to prepare opening briefs (from August 22, 2024 to late October 2024) and one month to prepare reply briefs (from late October 2024 to late November 2024). (Scoping Memo at 10.)

of reply briefs before a Commission decision.<sup>24</sup> Thus, rejection of the Settlement Agreement today would lead to parties and the Commission spending at least six additional months of time and effort.

Even more time could be needed, however. That is, the Commission could need to take evidence on the “stress test” before the filing of briefs. The stress test comes from Pub. Util. Code § 451.2(b) which, as said by Wild Tree, asks the question “[w]hat is the maximum amount SCE can pay without harming ratepayers or materially impacting its ability to provide adequate and safe service when allocating costs.”<sup>25</sup>

The Scoping Memo notes that this question has been implemented through the Commission’s stress test framework which it describes as:

That framework provides that “[a] utility requests application of the Stress Test ... in a second phase within an existing application, or by filing a new application, following a Commission determination that all or some wildfire costs are disallowed.” [Footnote deleted.] The Commission has not yet made a determination to disallow SCE’s costs and SCE has not requested application of the Stress Test. The Commission will consider the relevant Stress Test factors in a second phase, if the Stress Test becomes applicable.<sup>26</sup>

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<sup>24</sup> Receipt of reply briefs, when the schedule includes the filing of briefs, is typically the time when a proceeding is submitted for preparation of the proposed decision. The ALJ has up to 90 days (three months) after submission to file and serve a proposed decision. The Commission shall issue its decision not sooner than 30 days (one month) after the filing and service of the proposed decision. (Pub. Util. Code § 311(d).)

<sup>25</sup> Scoping Memo at 6.

<sup>26</sup> Scoping Memo at 6-7.

That is, if the Settlement Agreement is rejected and the matter is fully litigated, the Commission must resolve many complex disputed issues to determine how much, if any, of SCE's costs for the Thomas Fire and Montecito debris flow to disallow. After making that determination, a second phase (or another application) could be necessary to take evidence on the stress test, which is avoided by adoption of the Settlement Agreement. This will certainly involve a great deal of risk, expense, complexity, and time. The Commission disagrees with Wild Tree and concludes that consideration of the risk, expense, complexity and duration weigh in favor of our giving full consideration to the potential reasonableness of the Settlement Agreement.

#### **4.2.2.3. Major Issues Addressed**

Third, Wild Tree says major issues are not addressed in the Settlement Agreement. Wild Tree says, for example, the major issues include the prudence of SCE settling claims and the actual amount of the settlement. To the extent SCE argues its facilities did not cause the alleged damages, Wild Tree says SCE should not have settled any of the claims, and to do so was imprudent. As discussed above, in pressing its claims that SCE has failed to meet its burden to that it acted prudently in incurring these costs, Wild Tree continues to misapply the Commission's legal standard for reviewing settlements.

We find that the major issues identified by Wild Tree are addressed in the Settlement Agreement. The prudence of SCE settling claims, both from the Thomas Fire and the Montecito Debris Flow, was a disputed issue in this proceeding, along with the origin and cause of the Anlauf ignition. The Settlement Agreement directly addresses the Settling Parties' dispute regarding

these issues and affirms that these issues were considered by the Settling Parties in reaching the Settlement Agreement.

Lawsuits were brought by three main categories of plaintiffs: (1) Public Entity Plaintiffs, (2) Subrogation Plaintiffs, and (3) Individual Plaintiffs. SCE faced significant exposure had plaintiffs' claims proceeded to trial. The exposure faced by SCE was not only the risk inherent in litigating hundreds of trials. The risk was also the application of the inverse condemnation doctrine by California courts, which subjects investor-owned utilities to strict liability for property damage even absent any showing of negligence.<sup>27</sup> These risks were present relative to the Thomas Fire given both the conclusion in the Anlauf fire agency report<sup>28</sup> and the quick merger of the two fires. These risks were also present from the Montecito debris flow claims given the connection between the Thomas fire and the Montecito debris flows.<sup>29</sup>

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<sup>27</sup> Inverse condemnation "as applied by California courts, generally makes investor-owned utilities strictly liable for property damage resulting from a fire determined to be ignited by utility facilities." (Application at 10.) This "liability can be found whether or not the damage was foreseeable, and even if there was no fault or negligence" by the utility. (D.18-07-025 at 23.)

<sup>28</sup> Settlement Agreement § B.3.2. at A-5. The report was prepared by the Ventura County Fire Department (VCFD) and California Department of Forestry and Fire Protection (Cal Fire). The report concluded that the Anlauf ignition "was caused by contact between SCE conductors in an area near a cathodic protection (CP) rectifier." (Id.)

<sup>29</sup> The debris flows were due in part to the effects of the Thomas Fire. (Settlement Agreement, § B.3.6 at A-6.) The Insurance Commissioner determined that the Thomas Fire was "the efficient proximate cause" of the Montecito debris flow. (Exh. SCE-06 at 9.) Wildfire claims include "claims arising from damage caused by mudslides that are alleged to have resulted from a wildfire." (Exh. SCE-10 at 6 citing SCE's WEMA tariff definitions, referring to SCE Tariff Book, Preliminary Statement N, § 52.b(ii).)

Also regarding the amount offered in settlement, Wild Tree says that important details are not addressed in the Settlement. Wild Tree says, for example, that the

...settlement does not make any distinction between recovery for the Thomas Fire, Montecito Debris Flows, legal costs, or debt costs but instead proposes to permit a percentage of all requested costs lumped together into WEMA and CEMA recorded costs.”<sup>30</sup>

Settling Parties correctly point out, however, that the Settlement Agreement:

...affirms that the Settling Parties “considered the nature of the different categories of costs at issue in this proceeding, including the different types of WEMA costs (i.e., claims costs, legal expenses, financing costs) and CEMA costs, and how that relates to their reasonableness and recoverability.” [Footnote.] The Settlement Agreement’s key terms...reflect the Settling Parties’ mutual agreement and reasonable compromise across a broad range of disputed issues within the record of this proceeding.<sup>31</sup>

Footnote: Settlement Agreement § D.4. *See id.*, §§ E.8 and E.10.

The Commission considers the Settlement Agreement based on the standards for review of settlements described earlier in this decision. These include whether the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. The Settling Parties clearly considered different cost categories during their negotiations in reaching

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<sup>30</sup> Wild Tree Comments at 15.

<sup>31</sup> Joint Reply Comments at 11.

settlement. The Commission, however, does not need the Settlement Agreement to make cost distinctions between recovery for the Thomas Fire, Montecito debris flows, legal costs, debt costs, or other components, to judge whether it meets the Commission's tests for adoption.

Therefore, the Commission is not persuaded by Wild Tree's claim that SCE failed to demonstrate it acted prudently in settling claims. We are also not persuaded by Wild Tree that the Settlement Agreement lacks necessary cost details. The Commission finds that the Settlement Agreement addresses all major issues and contains sufficient details for us to determine whether it meets our tests for adoption.

#### **4.2.2.4. Amounts Known**

The fourth item identified by Wild Tree for why the Settlement Agreement is not in the public interest is that the amounts offered in the settlement are unknown. Wild Tree identifies unknowns in five areas: (1) Trailing Costs, (2) timing of the \$125 million from the ACO, (3) possible recoveries (damages and legal fees) by SCE for cross-complaints related to the Montecito debris flow litigation, (4) tax treatments, and (5) costs associated with long term securitization for the \$1.682 billion in SCE's allowed recovery.

##### **4.2.2.4.1. Trailing Costs**

With regard to Trailing Costs, Wild Tree says the Settlement Agreement provides only "a speculative, outdated estimate..."<sup>32</sup> Wild Tree points to the Settlement Agreement saying the Trailing Costs are estimated to be \$9 million

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<sup>32</sup> Wild Tree Comments at 16.

“but that estimate is subject to change.”<sup>33</sup> The Commission understands that the \$9 million is subject to change but does not find that to be a fatal flaw. Wild Tree presents no evidence showing that the Trailing Costs are likely to materially exceed \$9 million, nor that the Settling Parties failed to consider a reasonable range of Trailing Costs. More importantly, the Settlement Agreement provides a defined process for efficiently resolving WEMA Trailing Costs consistent with the bargain struck by the Settling Parties (i.e., 60% recovery/40% permanent disallowance). This avoids duplicative and unnecessary continued litigation of this issue.

#### **4.2.2.4.2. Timing**

With regard to timing, Wild Tree objects to the Settlement Agreement deducting the \$125 million ACO amount from “some future, unspecified costs” rather than in the settlement of costs up to May 31, 2024.<sup>34</sup> On this point, however, Wild Tree itself quotes the Settlement Agreement:

In the unlikely event that the CPUC-jurisdictional amount of WEMA claims costs incurred after May 31 2024 does not exceed the \$125 million in WEMA claims costs waived under the ACO, SCE will ensure that the full \$125 million is given effect, through a refund to customers if necessary.<sup>35</sup>

The Commission is satisfied that the Settlement Agreement returns the full \$125 million to ratepayers and the timing is not a material concern.

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<sup>33</sup> Wild Tree Comments at 16-17.

<sup>34</sup> Wild Tree Comments at 17.

<sup>35</sup> Wild Tree Comments at 17, citing Settlement Agreement at A-34 footnote 68.

#### **4.2.2.4.3. Other Recoveries**

With regard to possible recoveries from others, Wild Tree points out that in “the Montecito Debris Flows litigation, SCE has sued various public agencies for indemnity.”<sup>36</sup> Wild Tree is concerned that this materially affects the reasonableness of the Settlement Agreement given unknown possible awards to SCE. The Commission disagrees.

Wild Tree is correct that SCE has sued various public agencies. The Settlement Agreement makes clear that SCE has made settlement payments to certain public entities and has taken legal action to attempt to recover at least a part of its settlement payments from certain public entities who caused or contributed to damages arising from the 2018 Montecito debris flows, and those actions remain pending.<sup>37</sup>

The Settlement Agreement provides that SCE ratepayers will receive 60% of any amount recovered by SCE in that litigation, with SCE retaining 40%.<sup>38</sup> Wild Tree says if SCE is successful in these cross-complaints that SCE “would recover at least 100% of its costs associated with the debris flows (60% now, 40% after indemnification).”<sup>39</sup> The Commission does not find this to be a material

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<sup>36</sup> Wild Tree Comments at 17.

<sup>37</sup> Settlement Agreement § C.1.7 at A-11, citing Exh. SCE-06. SCE also says “The civil litigation related to the Thomas Fire and Montecito Debris flows was coordinated in the proceeding Southern California Fire Cases, Case No. JCCP 4965, Superior Court of the State of California, County of Los Angeles. This includes SCE's cross-complaints against certain public entities (Case Nos. BC699216 and BC698429).”

<sup>38</sup> Settlement Agreement § F.2 at A-34.

<sup>39</sup> Wild Tree Comments at 17.

concern for the following reasons. Wild Tree does not present any evidence of the amounts at issue to put this concern in context. Further, no matter the amounts, this is the same allocation as in the Settlement Agreement regarding recovery and disallowance, thereby providing the same division of the benefits. Also, the record contains no evidence on the likelihood of SCE prevailing in this cross-claim litigation but it is possible that SCE may not prevail, or prevail only in part, thereby receiving less than it seeks. Finally, trailing WEMA cost recovery will be subject to public process and review by Tier 2 Advice Letter(s).<sup>40</sup>

Wild Tree is also concerned about the recovery of legal fees relative to these lawsuits. That is, the Settlement Agreement provides that, in pursuit of the cross-complaints, SCE will recover 75% of any outside legal fees and costs incurred after May 31, 2024.<sup>41</sup> Wild Tree says if successful in the lawsuit, SCE could recover more than 100% of its legal fees and costs (60% recorded in WEMA, 75% in Trailing Costs, plus legal fees awarded by the court). The Commission does not find this to be a material concern. Wild Tree does not present any evidence of the amounts at issue to put this concern in perspective. We note that Cal Advocates, in its hard-fought representation of ratepayers,

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<sup>40</sup> Settlement Agreement § F.2 at A-35. The Commission's advice letter process provides due process. Tier 2 Advice Letters are effective upon written approval of Energy Division. Tier 2 Advice letters, however, are also subject to protest. Energy Division may resolve the protest and issue a written approval. A person who submitted a protest may request Commission review of Energy Division's disposition. Alternatively, Energy Division may convert the Advice Letter to Tier 3 (requiring a formal written resolution adopted by the Commission to adjudicate the protest). Energy Division may also recommend that the matter be presented for evidentiary hearing. (See General Order 96-B, General Rule 7 (Advice Letter Review and Disposition) and Energy Industry Rule 5 (Tier Classifications for Advice Letters ).)

<sup>41</sup> Settlement Agreement § F.2 at A-35.

agreed to this allocation as part of the entire Settlement Agreement. This will also be subject to public process and review by Tier 2 Advice Letter(s). Further, we agree with SCE that this gives SCE an incentive

...to zealously pursue the litigation. Moreover, contrary to Wild Tree's suggestion ... the potential recovery of legal fees is speculative and even if there were such an award by the court it would be an "amount recovered by SCE in th[e] litigation" subject to being credited to customers pursuant to the Settlement Agreement (Settlement Agreement, § F.2.).<sup>42</sup>

Therefore, we do not find that Wild Tree's concerns about possible recoveries from others to be material. These concerns do not affect our determination of the reasonableness of the Settlement Agreement.

#### **4.2.2.4.4. Tax Treatments**

With regard to tax treatments, Wild Tree says the Settlement Agreement provides for no adjustment "for any tax benefits or liabilities that may be realized by SCE or its shareholders."<sup>43</sup> Wild Tree says this "would include deductions for disallowed amounts which functionally decreases the disallowed amounts."<sup>44</sup> The Commission does not agree that this is a concern. In fact, the tax treatment in the Settlement Agreement is consistent with the Commission's general rule:

...that when deductions were not part of utility cost of service, but were generated with shareholder funds, the deductions are the property of shareholders and not ratepayers. This

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<sup>42</sup> Joint Reply Comments at 12, footnote 50.

<sup>43</sup> Wild Tree Comments at 17-18, citing Settlement Agreement § G.5 at A-39 to A-40.

<sup>44</sup> Will Tree Comments at 18.

include[s] deductions derived from disallowed costs incurred in excess of those included in rates. D.14-08-032 at 584.<sup>45</sup>

#### **4.2.2.4.5. Long-Term Securitization**

With regard to long-term securitization, Wild Tree says unknown further financing and transactions costs are associated with the \$1.682 billion SCE will seek to finance via recovery bonds in a future application.<sup>46</sup> We find that these concerns are premature. These costs will be addressed in an upcoming, separate proceeding. That proceeding will consider the extent to which ratepayers are better off by long-term financing via a recovery bond or under the Settlement Agreement.

#### **4.2.3. System Enhancements**

The Settlement Agreement provides that SCE will select one or more of six system enhancement proposals, and may include others by consensus with Cal Advocates. The Settlement Agreement includes \$50 million funded by SCE shareholders for these vaguely defined system enhancements, with unspent money returned to ratepayers at the expiration of the System Enhancements Term.

In Assembly Bill (AB) 1054 (Stats. 2019, ch. 79) and Senate Bill (SB) 901 (Stats. 2018, ch. 626), California created a comprehensive strategy to address and minimize the risk of catastrophic wildfires posed by electrical equipment, jointly implemented by the utilities, the Commission, and the Office of Energy Infrastructure Safety (OEIS)). Each utility, including SCE, must prepare Wildfire

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<sup>45</sup> Joint Reply Comments at 12, footnote 47.

<sup>46</sup> Wild Tree Comments at 18.

Mitigation Plans (WMPs), which the OEIS approves and the Commission ratifies. The WMPs are part of a detailed scheme to minimize the risk of catastrophic wildfires posed by electrical lines and equipment, and must include, among other things: the utility's optimal proposed portfolio of wildfire mitigations. In addition, the Commission evaluates each utility's proposed revenue requirement for implementing its WMP, in its GRC or other application proceedings. These are the relevant forums in which the Commission evaluates just and reasonable expenditures for wildfire mitigation efforts.

#### **4.2.3.1 Discussion**

The Commission is concerned with several aspects of the system enhancements piece of the Settlement Agreement, given California's existing comprehensive program to address wildfire mitigation efforts. These concerns include:

- How SCE's selection of one or more of the six proposed system enhancements as well as any other system enhancements that might be selected through consensus and collaboration with Cal Advocates relates to SCE's WMPs;
- How to ensure that the \$50 million for system enhancements is spent in addition to money already collected in rates for wildfire mitigation costs;
- How the Commission can ensure that any funds not spent for system enhancements are returned to ratepayers;
- The reasonableness of the provision that effectively provides \$50 million for vaguely defined system enhancements without any stated provision for oversight by the Commission's staff, especially when such funds could alternatively be directed towards wildfire mitigation

- risk activities that OEIS has already determined are appropriate wildfire mitigation strategies;
- The reasonableness of Cal Advocates' claimed role in oversight and approval of what are essentially wildfire mitigation measures that are the assigned role of OEIS to evaluate; and
  - The reasonableness of any of the six SCE system enhancement proposals as well as any other system enhancements that SCE and Cal Advocates might select through collaboration and consensus, to the extent they are outside the scope of SCE's adopted and approved WMP.

The Commission appreciates the Settling Parties including the system enhancements element within the Settlement Agreement, but given the concerns stated above, we do not find this provision to be in the public interest as written. Accordingly, the Commission modifies this element of the Settlement Agreement by directing SCE to apply \$50 million in shareholder funds (at a rate of \$10 million per calendar year, via a Tier 2 Advice Letter) toward SCE's wildfire mitigation costs recorded in its authorized wildfire memorandum accounts to be reviewed in the proceedings for the reasonableness review application of SCE wildfire mitigation costs for years 2024-2028. The \$50 million in shareholder funds should be applied as an offset to expenses and/or capital items consistent with the amounts spent by SCE as expenses or capital. The Commission neither directs SCE to, nor prohibits SCE from, undertaking the system enhancements discussed in the Settlement Agreement. By directing the shareholder funds to costs recorded in the authorized wildfire memorandum accounts, the modification proposed here will ensure that utility investments are directed towards the most effective approved wildfire safety risk mitigation measures

consistent with the framework for evaluating and approving wildfire mitigation work in approved WMPs and costs within Commission proceedings. We find this approach, which directs the \$50 million in system enhancements to be applied through a Tier 2 Advice Letter, will also reduce the administrative burden on SCE, the Commission, Cal Advocates, and OEIS. With this modification, the Commission finds the Settlement Agreement to be in the public interest.

#### **4.2.4. Consistent with Law**

Rule 12.1(d) requires settlements to be consistent with applicable law. The applicable law includes Pub. Util. Code Sections 451, 454, 491, 701, and 728, Commission Resolution (Res.) E-3238, Res. E-4311, Rules 12.1-12.7, and the Commission's prior decisions. In addition, any system enhancements considered in this proceeding should be consistent with the implementation of WMP pursuant to AB 1054 and SB 901.

No party argues that the proposed Settlement Agreement is inconsistent with the applicable law. D. 21-08-024 found costs associated with the Thomas Fire to be eligible for CEMA recovery (i.e., costs were properly associated with catastrophic events and incremental to amounts already authorized in SCE's general rate case). Finally, by directing SCE to apply the \$50 million in shareholder funded system enhancements as a reduction to SCE's wildfire mitigation costs through an Advice Letter, the consistency of SCE's proposed system enhancements with the applicable law is not at issue. As a result, the Commission finds the Settlement Agreement, as modified herein, to be consistent with law.

#### 4.2.5. Settlement as a Whole

Finally, while we consider individual elements, we judge a settlement as a whole. For example, in D.04-12-017, the Commission stated that:

“...in considering a proposed settlement, we do not ‘delve deeply into the details of settlements and attempt to second-guess and re-evaluate each aspect of the settlement, so long as the settlements as a whole are reasonable and in the public interest.’ (*SDG&E*, (1992) 46CPUC 2d 538,551.) [Moreover,]...the hearing on the settlement need not be a ‘rehearsal for trial on the merits.’ (*Id.* at 551.) (D.03-12-035, *mimeo.*, p.18.)“

Also:

“Under Rule 51 and §§ 451, 454, and 728, we review and approve a settlement if its overall effect is ‘fair, reasonable and in the public interest.’ California and U.S. Supreme Court decisions provide that we may consider the overall end-result of the proposed settlement and its rates under the ‘just and reasonable’ standard, not whether the settlement or its individual constituent parts conform to any particular ratemaking formula. (*FPC v. Hope Natural Gas Co.* (1944) 320 U.S. 591, 602.)

“In reviewing a settlement...we stand back from the minutiae of the parties’ positions and determine whether the settlement, as a whole, is in the public interest.” (D.03-12-035, *mimeo.*, p. 20; emphasis in original.)<sup>47</sup>

That is, we consider the overall effect of the settlement. We may consider but do not judge each individual part. Rather, we focus on the settlement as a whole to ensure that the overall end result is just and reasonable. The Commission finds that here.

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<sup>47</sup> D.04-12-017 at 9 - 10. Note that Rule 51 is a prior Commission rule dealing with settlements. It is replaced by current Rules 12.1 to 12.7 in Article 12 of the Commission’s Rules of Practice and Procedure.

## **5. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

The Commission received 46 public comments as of November 7, 2024. These comments are all in opposition to SCE’s application. Commenters express strong views against the Commission authorizing any ratepayer rate increases to reimburse SCE for costs caused by the Thomas Fire and Montecito debris flows.

## **6. Conclusion**

The Commission finds the Settlement Agreement, as modified herein, is reasonable in light of the whole record, consistent with law, and in the public interest. The Commission considered, analyzed and addressed all relevant objections or concerns of Wild Tree. The Commission finds that the Settlement Agreement is a negotiated resolution of all disputed issues. The Commission finds that the Settling Parties had a sound and thorough understanding of the record and all underlying assumptions.

## **7. Procedural Matters**

This decision affirms all rulings made by the ALJ and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

## **8. Comments on Proposed Decision**

The proposed decision of ALJs John H. Larsen and Paul Hagen in this matter 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. Joint comments were filed by SCE and Cal Advocates on January 16, 2025. No reply comments were filed.

The proposed decision adopted the Amended Settlement Agreement with modified treatment of the \$50 million for system enhancements (i.e., of applying the \$50 million in shareholder funds (at a rate of \$10 million per calendar year via a Tier 2 Advice Letter) as a reduction to SCE’s wildfire mitigation costs recorded in the authorized wildfire memorandum accounts (for years 2024-2028) to be reviewed in the proceedings for the reasonableness review application of SCE wildfire mitigation costs and , in the event that the total reduction for costs recorded in the authorized wildfire memorandum accounts (for years 2024-2028) does not amount to \$50 million, SCE will return any remaining portions to customers via SCE’s Annual Electric True-Up Advice Letter). The proposed decision noted that this is not a rejection of the Amended Settlement Agreement as a whole but that the Settling Parties may consider the modification to be an “alternative term” as described in Rule 12.4(c). The proposed decision stated that, in addition to any other comments they may have, Settling Parties shall file comments that accept the proposed decision (with the “alternative term”) or request other relief. Settling Parties affirm in their joint comments on the proposed decision that they accept the “alternative terms to address the \$50 million of shareholder-funded system enhancements...pursuant to Rule 12.4(c).”<sup>48</sup>

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<sup>48</sup> Joint Comments of Settling Parties at 2.

## **9. Assignment of Proceeding**

President Alice Busching Reynolds is the assigned Commissioner and John H. Larsen and Paul Hagen are the assigned ALJs in this proceeding.

### **Findings of Fact**

1. The Settling Parties had a sound and thorough understanding of the application and all underlying assumptions.
2. The Settlement Agreement, as modified herein, is reasonable in light of the whole record of this proceeding because it resolves all issues presented to the Commission; does so with citations to the entire record; and reflects a compromise between Settling Parties' litigation positions across a range of factual and legal disputes (including different categories of WEMA-eligible costs and the value of asset replacements) within the extensive record.
3. The Settling Parties have created a fully developed evidentiary record containing sufficient information for the Commission to determine the reasonableness of the Settlement Agreement. SCE's showing is supported by 16 chapters of prepared direct and rebuttal testimony sponsored by 33 witnesses, including 12 independent experts, and covering nearly 1,000 pages (with attachments). Cal Advocates' showing is supported by 10 chapters of prepared testimony sponsored by 8 witnesses covering approximately 2,500 pages (with attachments). All evidence was received into the record without a motion for exclusion.
4. California has a comprehensive program to address wildfire mitigation that involves the participation of many stakeholders (e.g., utilities, Commission, California Wildfire Safety Advisory Board, interested parties, public); the

comprehensive program results in adoption of Wildfire Mitigation Plans, performance metrics, and compliance practices; performance of annual safety culture assessments; and the review of wildfire-related costs by the Commission in GRCs and other rate setting proceedings.

5. Approving the commitment of \$50 million of shareholder funds to a set of vaguely defined System Enhancements designed to reduce the risk of wildfire in this proceeding without any stated provision for oversight by Commission staff is not in the public interest.

6. Directing SCE to apply \$50 million in shareholder funds as a reduction to SCE's wildfire mitigation costs recorded in the authorized wildfire memorandum accounts (for years 2024-2028), via a Tier 2 Advice Letter ensures that utility investments are directed towards the most effective approved wildfire safety risk mitigation measures consistent with the framework for evaluating and approving wildfire mitigation work and reduces administrative burdens.

7. The Settlement Agreement, as modified herein, is in the public interest because it includes a permanent disallowance of about \$1.095 billion (in addition to the \$125 million already waived under terms of the ACO), minimizes the total amount of financing costs (compared to those incurred with protracted litigation), will contribute to improving SCE's credit metrics and financial health (which permits more cost-effective access to capital to the benefit of SCE and its customers), commits \$50 million in shareholder funds to system enhancements, resolves numerous disputed issues of material fact without further litigation (thereby conserving the limited time and resources of the parties and the

Commission), provides the approximately \$1.095 billion disallowance as a ratepayer benefit sooner rather than later, and signals a constructive regulatory framework.

8. The Settlement Agreement, as modified herein, is in the public interest because it represents a fair and equitable resolution of all issues in a manner that benefits customers and the general public.

### **Conclusions of Law**

1. The Settlement Agreement should be modified to direct SCE to apply \$50 million in shareholder funds as a reduction to SCE's wildfire mitigation costs recorded in the authorized wildfire memorandum accounts (for years 2024-2028) through a Tier 2 Advice Letter because ensuring that utility investments are directed towards the most effective approved wildfire safety risk mitigation measures and reducing administrative burdens are in the public interest.

2. The Settlement Agreement, as modified herein, is reasonable in light of the whole record of this proceeding.

3. The Settlement Agreement, as modified herein, is consistent with law.

4. The Settlement Agreement, as modified herein, is in the public interest.

5. The Settlement Agreement, as modified herein, meets the requirements of Rule 12.1(d) and should be approved.

6. Proceeding A.21-05-016 should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The August 29, 2024 Joint Motion by Southern California Edison Company and the Public Advocates Office for Approval of a Settlement Agreement, as modified herein, is granted.

2. The “Amended Settlement Agreement Between Southern California Edison Company and the Public Advocates Office Resolving Thomas Fire and Debris Flow Cost Recovery Application (A.23-08-013)” (executed on November 4, 2024) contained in Attachment A, as modified herein, is adopted.

3. Southern California Edison Company (SCE) shall apply \$50 million in shareholder funds (at a rate of \$10 million per calendar year via a Tier 2 Advice Letter) to reduce SCE’s wildfire mitigation costs recorded in the authorized wildfire memorandum accounts (for years 2024-2028) to be reviewed in the proceedings for the reasonableness review application of SCE wildfire mitigation costs. The \$50 million shall be applied as an offset to expenses and/or capital items consistent with the amounts spent by SCE as expenses or capital and reviewed. In the event that the total reduction for costs recorded in the authorized wildfire memorandum accounts (for years 2024-2028) does not amount to \$50 million, SCE shall return any remaining portions to customers via SCE’s Annual Electric True-Up Advice Letter.

5. Application 23-08-013 is closed.

This order is effective today.

Dated January 30, 2025, at Sacramento, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration.