TURN
THE UTILITY REFORM NETWORK
Lower bills. Livable planet.

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President Carla J. Peterman
Commissioner Dave Jones
Commissioner Michael Kahn
Commissioner Pedro Nava
Commissioner Michael Wara
Catastrophic Wildfire Cost and Recovery Commission
Governor's Office of Planning and Research

Dear President Peterman, and Commissioners Jones, Kahn, Nava and Wara,

TURN–The Utility Reform Network asks you to exercise leadership to protect California utility ratepayers from skyrocketing bill increases due to the impacts of wildfire prevention and liability costs. Unless new policies are adopted to protect ratepayers, wildfire-related costs, already substantial and growing, will soon become devastating.

For example, the amount Pacific Gas & Electric Company (PG&E) proposes to spend in 2020 to prevent wildfires and purchase wildfire liability insurance would increase average annual electric bills by $84 for residential customers. Customers will face additional bill increases from PG&E's wildfire prevention activities and insurance costs before 2020 that are not yet reflected in rates. And these wildfire-related costs are likely to increase further for many years after 2020. Furthermore, if PG&E's liability costs from the 2017 and 2018 wildfires, estimated to be as high as $30 billion, were imposed on ratepayers as PG&E desires, this could increase average, annual residential bills by another $300. These increases -- $84 for 2020 wildfire prevention and insurance, plus $300 for 2017-2018 wildfire liability, and more for pre-2020 wildfire prevention and insurance costs -- would require residential customers to essentially pay the equivalent of four extra monthly utility bills in a year. Yet these figures represent only the initial impacts of what could well be years of higher utility spending to prevent wildfires, leading to increased rates that persist for decades into the future,[1] not to mention impacts from any utility-caused wildfires in 2019 and beyond. In short, any path that relies largely on ratepayers to fund utility wildfire-related costs is likely to lead California in an unsustainable direction.

The costs that utility companies are demanding that California ratepayers pay generally fall into two broad categories: (1) wildfire prevention and remediation costs (that is, the costs of reducing the risk of wildfires due to utility ignition, and restoring utility facilities after a wildfire

[1] Utility spending on capital projects is recorded over years and, in many cases, decades, with an authorized rate of return that can result in a total amount of recovery of double the original cost on a nominal basis.

and obtaining insurance to cover third party claims); and (2) wildfire liability costs (typically damages and attorneys' fees due to a utility-caused wildfire). TURN and AARP discuss each category below.

**Wildfire Prevention and Remediation Costs**

The state's electric investor-owned utilities have historically engaged in equipment inspection and maintenance and vegetation management activities that were in part targeted at reducing the risks of utility-caused wildfires. Recent years have seen dramatic expansions in the scope and scale of many of these activities. Vegetation management now seeks to achieve not only greater clearances between electric lines and living trees, but also removal of trees killed by drought and, in some cases, healthy trees that are of the wrong "fast-growing" species. "System hardening" efforts in high fire hazard areas (such as installing "covered conductor" to replace existing conductor wire, and using non-wood poles) have become more prominently featured in the utilities' programs. The price tags for such efforts are substantial, as is clearly evidenced by the most recent proposals of PG&E and Southern California Edison Company (SCE), the state's two largest electric utilities. For example:

- PG&E spending on vegetation management (tree-trimming) has seen recent steep increases from its historical level of approximately $200 million per year, forecasted in its General Rate Cases (GRCs). In 2016 and 2017, the utility recorded an additional $395 million spent on "Tree Mortality and Fire Risk Reduction" activities above and beyond its GRC amount, and forecasted spending $260 million more on those activities in 2018. In its Wildfire Mitigation Plan submitted in early 2019 pursuant to SB 901, PG&E proposed additional "enhanced vegetation management" activities with a price tag of $430 million in 2019 expenses. Thus, for 2016-2019, PG&E expects to spend upwards of $1.9 billion on its vegetation management activities.

- PG&E's Wildfire Mitigation Plan also includes 2019 spending of $325 million for system hardening spending, and $800 million to $1.4 billion for "expanded inspections" that would be undertaken in addition to the utility's regularly scheduled inspections. With the "enhanced vegetation management" and other smaller programs included, the utility's Wildfire Mitigation Plan spending could total from $1.7 billion to $2.3 billion of new spending in 2019 alone.

- PG&E's GRC for 2020 includes forecasts of an additional $378 million for enhanced vegetation management, and $821 million for further system hardening spending, for total increased spending of $1.3 billion in 2020 alone.

- SCE also plans significant increases in wildfire-related spending. According to its Wildfire Mitigation Plan, SCE expects to spend in the range of $290-$334 million on enhanced vegetation management and operating and maintenance (O&M) activities, along with increased capital project spending of $237-$346 million, for total 2019 spending of $527-$680 million above and beyond the amounts currently authorized.

In addition to costs for such wildfire prevention activities, the utilities incur costs of remediating the impact of fires they have experienced. Remediation costs include the direct costs of restoring their facilities and service to their customers, and insurance to cover third party claims for wildfire damages. These costs, too, have grown at a tremendous pace in recent years.

- In PG&E's 2020 GRC application, the utility describes a 2017 liability insurance premium cost of $124 million, nearly 2.5 times the $52 million previously forecast for that year. The renewal cost increased by a factor of 3.0 for 2018 ($360 million), and PG&E anticipates annual costs remaining at that level for 2019 and 2020.

- Through its Wildfire Expense Memorandum Account (WEMA), PG&E can seek to recover above-forecast costs it incurs for such insurance. The utility's GRC application includes such a request for $67 million for the above-forecast costs of its 2017 annual insurance renewal. We expect the utility to make similar requests to recover the higher costs of insurance in 2018 and 2019—approximately $300 million each year.

- In SCE's most recent GRC application, the utility forecasted $92.4 million for liability insurance costs for 2018, but later sought and received CPUC approval for recovery of an additional $107 million of wildfire insurance for 2018. Like PG&E, SCE has a WEMA that will permit it to seek recovery of further costs for wildfire insurance coverage for 2019 and 2020 that exceed the GRC forecast.

- Both PG&E and SCE have likely recorded and will continue to record very substantial costs associated with restoring service in areas devastated by wildfires, whether or not caused by utility equipment. The North Bay and Camp fires in northern California, and the Thomas and Woolsey fires in the Los Angeles area, destroyed substantial portions of each utility's infrastructure, with system restoration costs at levels likely to outstrip those previously seen. PG&E's initial estimates were up to $190 million for the North Bay fires of late 2017, and in excess of $385 million for the 2018 Camp Fire. Ratepayers will be asked to pay these restoration costs at some point in the future, further increasing bills.

Even if viewed in isolation (that is, without consideration of the wildfire liability costs discussed below), the bill impacts of such wildfire prevention and remediation costs are very substantial and unlikely to abate in the near future. According to PG&E's presentation summarizing its 2020 GRC request, the incremental increases associated with its wildfire liability insurance and the various programs included in its "Community Wildfire Safety" efforts would, on their own, increase the authorized revenue requirement by approximately $850 million in 2020 alone, and amount to a 10% increase to the overall GRC revenue requirement. The average residential customer would pay an additional $84 per year as a result. This captures only a fraction of the impact, as it does not capture the costs from 2019 and before that have not yet been reflected in rates. And this would not be a one-time impact, but rather would be expected to persist as part of the authorized revenue requirement into the foreseeable future, with the potential to be compounded by further increases similar to those reported in recent years.[2]

TURN and AARP are not suggesting that all of the utility costs described above are reasonable for recovery in rates.[3] Rather, for purposes of assessing the potential cost impact for California's ratepayers here, TURN and AARP are relying on the costs presented by the utility, without taking a position on how much of those costs should be recovered from ratepayers as opposed to borne by the utility and its shareholders.

**Wildfire Liability Costs**

Third parties that suffer losses due to a utility-caused wildfire will seek recovery from the utility. Such third-party claims are likely to present questions of whether utility negligence or imprudence was a contributing factor to the wildfire event and, therefore, whether ratepayers should bear any of the associated claims costs. Of the seventeen wildfires in the North Bay area in 2017, CAL FIRE has found that PG&E violated vegetation management requirements in the substantial majority of them. And it appears very likely that the devastating Camp Fire of 2018 was caused by PG&E equipment that was not adequately maintained. Similar questions have been raised but not yet determined for SCE's role in the Thomas Fire of 2017 and the Woolsey Fire of 2018.

A bedrock principle of California public utilities law is that costs that are the result of utility imprudence are not just and reasonable and, therefore, may not be added to customer rates. This principle, often referred to as the "prudence doctrine," is a matter of both fundamental fairness and common sense. It is compelled by fairness because forcing ratepayers to pay for costs that they did not cause and that would have been avoided if the utility had been operated prudently is, as the CPUC has recognized, unconscionable. TURN has consistently advocated for the recognition and enforcement of this doctrine, and will continue to forcefully urge California's decisionmakers to avoid outcomes that would have utility ratepayers bear costs arising from utility mismanagement.

That said, TURN acknowledges that the appropriate authorities have yet to reach the ultimate determination of the role utility imprudence played in some of the largest recent utility equipment-caused fires. Furthermore, with the enactment of SB 901 in 2018, the Legislature saw fit to erode the principle that ratepayers do not pay for imprudent utility actions by enabling a ratepayer-funded bailout if the Commission determines that the imprudence-related claims for 2017 wildfires that would ordinarily be paid by the utility's shareholders should be capped to avoid "harming ratepayers or materially impacting [the utility's] ability to provide adequate and safe service." Public Utilities Code § 451.2. TURN is aware that various interests seek legislation enabling a similar bailout for imprudence-related claims from wildfires in 2018 and later.

[2] For PG&E, these figures do not include the roughly $600 million of above-forecast costs of 2018 and 2019 liability insurance the utility is likely to seek to recover through its WEMA, as described above.
[3] For example, if the utility is now requesting cost recovery for activities it was required to perform in the past, and was funded to perform but did not or performed inadequately, rate recovery would be inappropriate.

Therefore, TURN discusses here the total liability figures associated with recent wildfire events, without attempting to identify the portion that would or should be borne by the utility under the prudence doctrine.

PG&E has stated that if it is found liable for the losses with respect to the 2017 and 2018 Northern California wildfires, the amount of such liability could exceed $30 billion. In March of 2019, Fitch Ratings estimated that SCE's potential financial exposure due to claims arising from the 2017 and 2018 wildfires could reach $6.5 billion. For figures of this magnitude, it is likely that recovery from utility ratepayers would be amortized over an extended period, with securitization or some other form of achieving reduced financing costs. Using a 20-year recovery period and a 5% interest rate, if all of PG&E's current estimate of $30 billion in liability costs for the 2017 and 2018 wildfires were to be imposed on ratepayers, TURN's rough estimate is that residential bills would increase by an average of $300 per year or $25 per month.[4] Thus, imposing these liability costs on ratepayers would add approximately 25% to the average PG&E residential bill, on top of the other major increases for wildfire prevention and remediation discussed above. Moreover, these calculations reflect liability costs for just the most recent two years of PG&E-caused wildfires. Forcing ratepayers to pay for liability costs for any future wildfires would only cause residential bills to further skyrocket.

**Catastrophic Wildfire Insurance Fund: Alternative to Ratepayer Funding of Liability**

The California Catastrophic Wildfire Insurance Fund is designed to spread the risk of property damage from climate driven catastrophes by setting up a reinsurance pool funded by revenue from a dedicated surcharge on property insurance policies. The funds collected would be used to offset a portion of insurance claims due to wildfire property damage, regardless of whether the fire is utility related, or caused by other ignition sources such as vehicles, lightning, camping, lawn equipment, or fireworks. However, utility shareholders and other corporations must be required to repay the fund, and unpaid claims of uninsured and underinsured individuals, if it is determined at a later date finds that the wildfire was caused by their negligence or imprudence.

Similar to the Florida Catastrophic Hurricane Fund, which has been in operation and covering billions in losses since the mid-1990's, the California Catastrophic Wildfire Insurance Fund would be able to leverage its dedicated funding stream to securitize its assets through issuing bonds, so that claims can be paid that may exceed existing principle at any given time.

Funding wildfire damage through property insurance would cover liability for all wildfires, and in cases of wildfires caused by utility equipment, would provide a more equitable way of funding wildfire damage than extraction from utility ratepayers. A surcharge on property insurance is a more equitable method to share wildfire risk because property is one of the places in which

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[4] TURN's calculation also assumes approximately 50% of the costs would be imposed on residential customers (with the remaining 50% assigned to commercial, industrial and agricultural customers), and reflects the statutory exemption of CARE and other low-income customers from bearing securitized wildfire costs. PU Code § 850.1(i). The bill impact is based on an average residential electricity bill of $100 per month.

generational accumulated wealth is stored. The disparity of wealth is far greater than the disparity in electricity consumption. Taxing electricity consumption is extremely regressive because the difference in energy use between high income and low income households is not that large. Recognition of unfairness of taxing consumption of essential goods and services is why groceries are exempt from sales tax.

Utility ratepayers are being asked to invest several billion dollars in tree trimming, wire insulation, pole hardening and other measures to prevent wildfires. It is far better for ratepayers to pay to prevent wildfires and minimize property losses than to serve as funders of last resort for wildfire victims. It just plain makes sense to fund property losses through the property insurance sector.

A Catastrophic Wildfire Insurance Fund that is funded through property insurance, especially if risks and costs can be shared with commercial property insurance as well as the residential sector, has several advantages to one funded by utility ratepayers.

1) Utility ratepayers are being asked to invest several billion dollars in tree trimming, wire insulation, pole hardening and other measures to prevent wildfires.
    a. It is far better for ratepayers to pay to prevent wildfires and minimize property losses than to serve as funders of last resort for wildfire victims.
    b. It just plain makes sense to fund property losses through the property insurance sector.
2) Provides insurance companies with an alternative to Inverse Condemnation.
    a. Recovering 50% of losses/payouts for all wildfires within 3–4 months might be more attractive than waiting 3–4 years to collect 60% of losses/payouts (after deducting 40% attorney fees) for only utility–related wildfires.
    b. Insurance companies choosing to be reimbursed by the Wildfire Fund would voluntarily agree not to seek recovery through Inverse Condemnation.
    c. Properly designed, this approach avoids rampant litigation over whether the state constitution prohibits statutory changes to Inverse Condemnation.
3) Provides a new option to cities, towns, counties, and municipal utility agencies.
    a. Public entities that are self-insured who wanted the ability to recover a portion of losses for all wildfires could decide to contribute to the Wildfire Fund.
    b. Public entities that are self-insured could decide to not contribute to the Wildfire Fund, and continue to apply for recovery of lost property through Inverse Condemnation for utility related wildfires.
4) Preserves the bedrock legal principle of holding utilities, or other entities, accountable when their negligence or imprudence has been determined.
    a. If a CPUC investigation/decision determines that utility negligence or imprudence was the cause of a wildfire years after funds have been dispersed, then shareholders are responsible for reimbursing the fund.
    b. If shareholders are unable to pay the entire amount immediately, they can agree to securitization, or even an extended payment plan, just like customers who fall behind in their bills.

## Utility Bill Affordability Crisis

The timing of these developments could not have been worse for many of the state's households. California is in the midst of a utility bill affordability crisis. High energy bills resulted in 886,000 California households being shut off by PG&E, SCE, SDG&E and SoCal Gas in 2017, impacting more than 2.5 million people, most of whom are children. Shutoffs in California increased by 50% in the past seven years, leading to deteriorating health and safety conditions, increased displacement and homelessness, and more mental stress among infants and children, older residents and people who have serious medical conditions. This affordability crisis is not confined to low-income households. For instance, while 2010–2016 PG&E shutoffs for CARE-eligible low income customers increased by 15%, shutoffs increased by 120% for PG&E customers not enrolled in an assistance program (99,637 to 219,411).

State law recognizes that there is an affordability crisis in utility bills. In 2017, the state legislature adopted the Shutoffs Reduction Act SB 598 (Hueso) to require that the CPUC adopt a strategy and goals to increase utility bill affordability and reduce the number of residential customer shutoffs. The CPUC has opened two rulemaking proceedings, R.18-07-006 (Affordability) and R.18-07-005 (Disconnections) to implement the provisions of SB 598. Unfortunately, outcomes that would add billions of dollars in additional wildfire mitigation and wildfire liability costs to the already heavy ratepayer burden threaten to undermine the intent of the legislature to make utility bills more affordable and to reduce the number of households that are disconnected from such essential services as electricity and gas.

## Time to Exercise Leadership to Protect Utility Ratepayers

TURN calls upon you to take bold action to protect utility ratepayers by developing alternate sources of funding for wildfire prevention and liability, such as property insurance surcharges, cap and trade auction revenues, and general state funding. Collecting such costs based on electricity consumption is extremely regressive because the difference in energy use between high income and low-income households is not that large. Recognition of the unfairness of revenue collection based on consumption of essential goods and services is why groceries are exempt from sales tax. California cannot afford the status quo of skyrocketing monthly utility bills and increasing by thousands the number of families that face having their electricity and gas service disconnected, and being deprived of lighting, heating and cooling needed for health and safety, and even evicted from their homes. Your leadership is needed to bring all stakeholders together to identify and agree to solutions that promote equity, fairness, and sustainability.

Thank you for your consideration,

Mark Toney

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