

June 12, 2019

Commission on Catastrophic Wildfire Cost and Recovery  
Governor's Office of Planning and Research  
1400 10<sup>th</sup> Street  
Sacramento, CA 95814

Commissioner Carla Peterman, Chair  
Commissioner Dave Jones  
Commissioner Michael Wara

Commissioner Michael Kahn  
Commissioner Pedro Nava

Dear Commissioners:

CLECA agrees that a balancing act is needed to address the current wildfire situation. That balance, however, must not tilt unduly toward the investor owned utilities and Wall Street. Rather, utility customers, homeowners and businesses on Main Street need stability, balance and certainty that the Legislature has their back in the raging wildfire debate. California's industrial electricity rates are almost double those of other western states. In January 2019: Nevada's average industrial rate was 4.94 ¢/kWh; Arizona's was 5.96 ¢/kWh; Texas' was 5.25 ¢/kWh; California's average industrial rate was 11.43 ¢/kWh. Our businesses cannot take much more.

### **Cut the Gordian Knot of Inverse Condemnation, Wildfire Damages and Insurance**

The current strict liability standard places the ultimate burden of catastrophic wildfire costs, including damages, on utility ratepayers. When catastrophic wildfires ignited by utility wires damage insured property, insurance companies seek recovery of the damages from utilities through inverse condemnation. The utility then seeks recovery of those costs from ratepayers, and the California Public Utilities Commission allows the recovery of those costs from ratepayers if the utility acted prudently; although for 2017 wildfires, per SB 901, these costs can be passed onto ratepayers even if the utility was imprudent and the costs are unjust and unreasonable. This is not sustainable.

Liability reform is not a bailout of unpopular investor-owned utilities, but a critically needed ratepayer protection and vital to California's energy and climate goals. Reform must be undertaken, along with system hardening to reduce future risk, and establishment of a catastrophic wildfire fund with equal contributions from insurance profits and insurance surcharges, utility shareholders and utility ratepayers, and the State.

Funding property losses with property insurance – both from investors and customers - is compellingly logical. Moreover, a state-run data agency, similar to the state agency that studies hurricanes in Florida, should be established to better inform insurance risk. This agency would conduct empirical, data-driven analysis by scientists, engineers, and sophisticated modeling that examines topography,

forest and vegetation conditions, weather, climate, etc., to determine risk of property damage from catastrophic wildfires; it would also be helpful for zoning, land use, and planning purposes.

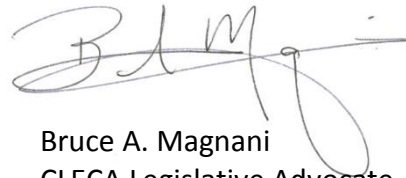
It is critical that wildfire costs be recovered broadly, from insurance profits and insurance surcharges, utility shareholders and utility ratepayers, and the State – not just from the customers of investor-owned utilities. Utility ratepayers are already paying for the costs of hardening the system to reduce future wildfire risk. If the cost of hardening the system and the liability for the 2017 and 2018 wildfire losses were passed to ratepayers, PG&E primary voltage industrial ratepayers could face combined rate increases of as much as 5.2 cents per kWh, bringing their rates up to 21.3 cents per kWh in 2023. SCE primary voltage industrial ratepayers could face combined rate increases of as much as 1.42 cents per kWh, bringing their rates up to 15.2 cents per kWh in 2023. If that same company was in Nevada, it would pay 4.94 cents per kWh; in Arizona it would pay 5.96 cents per kWh; and in Oregon it would pay 6.01 cents per kWh.

Equally important is the retention of the current prudent manager standard; the de-stabilization of the energy sector is in no small part due to past utility imprudence. Prior imprudence should not be rewarded with a lowered standard of care. These measures, taken together as they must be, would limit the anticipated steep rate increases under the status quo and align with bedrock legal principles of fault and negligence. Battling actual catastrophic wildfires requires bravery, as well as difficult, decisive, and sustained action. Battling the impacts of catastrophic wildfires, both past and future, demands the same from the Legislature and the Governor.

Sincerely,



Audra Hartmann  
CLECA Legislative Advocate



Bruce A. Magnani  
CLECA Legislative Advocate

cc: Executive Officer Evan Johnson