

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



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Implement Electric Utility Wildfire
Mitigation Plans Pursuant to Senate
Bill 901 (2018).

R.18-10-007

**COMMENTS OF THE COALITION OF CALIFORNIA UTILITY
EMPLOYEES ON WILDFIRE MITIGATION PLANS**

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Pursuant to the February 26, 2018 ALJ ruling denying TURN’s and POC’s motions for evidentiary hearings and the Scoping Memo’s “Remaining Schedule Without Hearings,” the Coalition of California Utility Employees (CUE) submits these comments on the electric utility wildfire mitigation plans. These comments follow the common comment outline.

INTRODUCTION

Five of the most destructive wildfires in California’s history occurred in 2017. The deadliest and most destructive wildfire in California’s history burned in 2018. These wildfires caused unimaginable loss of life, property damage, public health impacts, environmental degradation, damage to local economies and damage to the electric distribution system. The GHG emissions from the 2017 wildfires were estimated to be nearly as much as the total 2017 GHG emissions from electric generation. Climate change will continue to cause increasingly severe and more frequent wildfires. Cal Fire reports that:

[c]limate change, an epidemic of dead and dying trees, and the proliferation of new homes in the wildland urban interface (WUI) magnify the threat and

place substantially more people and property at risk than in preceding decades. More than 25 million acres in California wildlands are classified as under very high or extreme fire threat, extending that risk over half the state.¹

Further, while “wildfire response, preemptive fire prevention, and vegetation management to reduce fire severity and contain erratic wildfire have been intensified...[f]urther action is imperative.”²

To avoid more catastrophic impacts from wildfires, the Legislature convened the Wildfire Preparedness and Response Conference Committee, resulting in SB 901. That bill tasked the Commission with ensuring that electric utilities’ systems “will achieve the *highest* level of safety, reliability and resiliency.”³ Governor Brown and the Legislature knew when they enacted SB 901 that fire prevention activities cannot wait and a large cost that prevents even one wildfire is less than the cost inflicted by a wildfire.

It is now the Commission’s obligation to (1) ensure that the plain language and policy of SB 901 are carried out by establishing a set of adequate and unambiguous standards that utilities must follow to reduce the risk of wildfires caused by utility equipment, to make electric systems more resilient and resistant to damage from wildfires, and to ensure that utilities are prepared to respond during and after wildfires, and (2) hold the utilities accountable for complying with the standards established by the Commission.

¹ Community Wildfire Prevention & Mitigation Report in Response to Executive Order N-05-19, California Department of Forestry and Fire Protection, February 22, 2019, p. 2.

² *Id.*, p. 4.

³ Pub. Util. Code § 8386(c)(12) (emphasis added).

Public Utilities Code section 8386⁴ requires each electric IOU to submit a wildfire mitigation plan for the commission’s review, potential modification and approval. Section 8386(c) details 20 elements that must be included in wildfire mitigation plans. Section 8386(c)’s requirements are clear and the wildfire mitigation plans submitted by the IOUs closely track the requirements of section 8386(c), are detailed and comprehensive. The Commission should approve the wildfire mitigation plans as written so that, pursuant to SB 901, the utilities can do the work necessary to help prevent another catastrophic wildfire and to be prepared if one occurs.

1. MEANING OF PLAN APPROVAL

A. A COMMISSION-APPROVED PLAN SETS THE STANDARDS THAT AN ELECTRIC UTILITY *MUST* FOLLOW

In its Conditional Motion for Evidentiary Hearings, TURN argued that the activities in Commission-approved wildfire mitigation plans should not be compliance requirements; rather, they should be mere goals.⁵ TURN ignores the plain language and intent of SB 901 – that a Commission-approved plan ***establishes the standards that a utility must follow or it will be penalized.***

SB 901 details 20 elements that ***must*** be included in wildfire mitigation plans including, for example, protocols for disabling reclosers and deenergizing portions of the distribution system,⁶ plans for vegetation management,⁷ how the

⁴ Section 8386 implements SB 901.

⁵ TURN Conditional Motion for Evidentiary Hearings, February 20, 2019, pp. 2-4.

⁶ Pub. Util. Code § 8386(c)(6).

⁷ *Id.*, § 8386(c)(8).

utility will ensure its system will achieve the highest level of safety, reliability and resiliency, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment and facilities, such as undergrounding, insulation of wires and pole replacement,⁸ and plans for restoring service after a wildfire, including showing the utility has an adequately sized workforce to promptly restore service.⁹

SB 901 then mandates that the Commission establish – by reviewing and **approving** the plans with or without modification – those standards that utilities **must** follow to reduce the risk of wildfires caused by utility equipment, to make electric equipment more resilient and resistant to damage from wildfires, and to ensure that electric utilities are prepared to respond during and after wildfires.¹⁰ SB 901 also provides that the Commission **must** authorize the utility to establish a memorandum account to track the costs to implement those standards¹¹ and prohibits a utility from diverting revenues authorized to implement those standards to any activities outside of an approved wildfire mitigation plan.¹² Then, critically, the Commission **must** enforce those standards through an annual review of each utility’s compliance with its approved plan,¹³ which includes a compliance review

⁸ *Id.*, § 8386(c)(12).

⁹ *Id.*, §§ 8386(c)(13), (16), (17).

¹⁰ *Id.*, § 8386(b) (“Each electric corporation shall annually prepare and submit a wildfire mitigation plan to the commission for review and approval...Prior to approval, the commission may require modifications of the plans. Following approval, the commission shall oversee compliance with the plans pursuant to subdivision (h)”).

¹¹ *Id.*, § 8386(e).

¹² *Id.*, § 8386(i).

¹³ *Id.*, § 8386(h) (“The commission shall conduct an annual review of each electrical corporation’s compliance with its plan.”)

and assessment by an independent evaluator.¹⁴ Importantly, if a utility does not substantially comply with its approved plan, the Commission **must** assess penalties on the utility.¹⁵ It makes no sense to say that the plans are mere goals and then mandate penalties if a utility fails to comply with the goal. Mandatory compliance means following the plan is mandatory – not a mere goal.

Indeed, through SB 901, the Conference Committee intended to make:

comprehensive changes to strengthen fire prevention activities for electric utilities such as vegetation removal, infrastructure maintenance, and utility company inspections. The committee called for electric utilities to develop more expansive and detailed wildfire and emergency preparedness plans to prevent the ignition of fires as a result of utility infrastructure and plan for the temporary shut off of power during extreme weather to prevent ignition of fires by the electric distribution network.¹⁶

The Legislature convened the Conference Committee and enacted SB 901 with strong accountability requirements to require the Commission and electric utilities to take meaningful action and achieve results – not to merely set goals.

TURN’s desire to make SB 901 meaningless by reducing wildfire mitigation plans to mere goals is contrary to the plain language and intent of SB 901 and should be flatly rejected. A Commission-approved plan sets the standards that a utility **must comply with** to reduce the risk of wildfires caused by utility equipment, to make utility equipment more resilient and resistant to damage from wildfires, to adequately respond when wildfires occur, and to avoid mandatory penalties.

¹⁴ *Id.*, § 8386(h)(B).

¹⁵ *Id.*, § 8386.1.

¹⁶ Proposed Conference Report No. 1, SB 901 (Dodd), August 28, 2018, p. 6.

B. SUBSTANTIAL COMPLIANCE WITH AN APPROVED PLAN SHOWS THAT THE UTILITY ACTED REASONABLY AND PRUDENTLY

SB 901 established a new standard of review for determining whether a utility can recover in rates the costs and expenses arising from a catastrophic wildfire.¹⁷ Specifically, SB 901 authorized the Commission to “allow cost recovery if the costs and expenses are just and reasonable, after consideration of the conduct of the utility.”¹⁸ SB 901 lists 12 factors the Commission must consider in evaluating the reasonableness of the costs and expenses.¹⁹ The factors include extreme climate conditions such as humidity, temperature and winds that contributed to or exacerbated the wildfire,²⁰ and the extent to which the costs and expenses were caused by circumstances beyond the utility’s control.²¹ Most of the remaining factors mirror measures that must be included in wildfire mitigation plans and, therefore, it makes sense that substantial compliance with an approved wildfire mitigation plan shows that the utility acted reasonably and prudently with respect to wildfire risk mitigation. After all, the Commission should only approve a wildfire mitigation plan if it prescribes the reasonable and prudent conduct the utility should undertake.

¹⁷ Pub. Util. Code § 451.1(a); *see also* Pub. Util. Code § 451.1(b) (“Notwithstanding Section 451, this section shall direct the commission’s evaluation of applications for recovery of costs and expenses arising from a catastrophic wildfire. This section shall not apply to any other applications for cost recovery.”).

¹⁸ *Id.*, § 451.1(a).

¹⁹ *Id.*, § 451.1(a)(1) – (12).

²⁰ *Id.*, § 451.1(a)(8).

²¹ *Id.*, § 451.1(a)(7).

For example, in determining whether a utility can recover costs and expenses arising from a catastrophic wildfire, the Commission must consider “[w]hether the electrical corporation disregarded indicators of wildfire risk”²² and “[w]hether the electrical corporation’s practices to monitor, predict and anticipate wildfires, and to operate its facilities in a reasonable manner based on information gained from its monitoring and predicting of wildfires, were reasonable.”²³ These factors mirror several wildfire mitigation plan requirements, including:

[a] description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks,²⁴

[a] list that identifies, describes and prioritizes all wildfire risks, and drivers for those risks, throughout the electrical corporation’s territory, including all relevant wildfire risk and risk mitigation information that is part of Safety Model Assessment Proceeding and Risk Assessment Mitigation Phase filings. The list shall include, but not be limited to...(A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electrical corporation’s equipment and facilities. (B) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the electrical corporation’s service territory,²⁵

[a] description of how the plan accounts for the wildfire risk identified in the electrical corporation’s Risk Assessment Mitigation Phase filing,²⁶ and

[a] methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk that is consistent with the methodology used by other electrical corporations unless the commission determines otherwise.²⁷

²² *Id.*, § 451.1(a)(2).

²³ *Id.*, § 451.1(a)(6).

²⁴ *Id.*, § 8386(c)(3).

²⁵ *Id.*, § 8386(c)(10).

²⁶ *Id.*, § 8386(c)(11).

²⁷ *Id.*, § 8386(c)(15).

Also, for example, in determining whether a utility can recover costs and expenses arising from a catastrophic wildfire, the Commission must consider whether a utility failed to design, operate or maintain its assets in a reasonable manner.²⁸ These factors mirror several wildfire mitigation plan requirements, including: “[p]rotocols for disabling reclosers and deenergizing portions of the electrical distribution system...,”²⁹ “[p]lans for vegetation management,”³⁰ “[p]lans for inspections of the electrical corporation’s electrical infrastructure,”³¹ and

[a] description of the actions the electrical corporation will take to ensure its system will achieve the highest level of safety, reliability and resiliency, and to ensure that its system is prepared for a major event, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, such as undergrounding, insulation of distribution wires, and pole replacement.³²

Most importantly, when determining the reasonableness of the costs and expenses, SB 901 requires the Commission to consider the utility’s compliance with its wildfire mitigation plan.³³ Thus, substantial compliance with Commission-established standards in an approved plan shows that the utility acted reasonably and prudently with respect to wildfire risk mitigation.

When it approves the wildfire mitigation plans, the Commission should explicitly state that if a utility substantially complies with the plan, the Commission will consider the utility’s actions reasonable and prudent.

²⁸ *Id.*, §§ 451.1(a)(3), (4) and (5).

²⁹ *Id.*, § 8386(c)(6).

³⁰ *Id.*, § 8386(c)(8).

³¹ *Id.*, § 8386(c)(9).

³² *Id.*, § 8386(c)(12).

³³ *Id.*, § 451.1(a)(9).

