“Responding to Natural Catastrophes – New Models and Approaches.”
Safe and Affordable Power for People, Not for Profit

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TO: California Earthquake Authority

RE: **SB 254 Study**

The majority of utility wildfire mitigation policy debate has focused on large, investor-owned utilities. Yet, there are dozens of small utilities that strive to continue to provide safe and affordable power throughout California. These comments concentrate on solutions for community-focused utilities, not for investor-owned utilities.

Electric Cooperatives provide safe and affordable power for people, not for profit. Electric cooperatives provide electric service to remote and rural areas of California that investor-owned and other types of utilities neglected because they were considered unprofitable to serve. The cost of providing electric service per mile of infrastructure is often more expensive in rural areas, and lack of density yields lower revenue. Golden State Power Cooperative represents the three rural electric cooperatives based in California, though we collaborate closely with the nearly 900 electric cooperatives that serve 56% of the nation’s landmass.

Electric cooperatives are uniquely vulnerable to wildfire impacts due to their vast service territories and intersection with public land. Additionally, we serve primarily residential services in economically disadvantaged areas. Electric cooperatives are not-for-profit and by law, member-consumers are provided electric service “at cost.”[1] Any increases in wildfire mitigation costs, insurance costs, and post-fire liabilities result in higher electricity rates for rural Californians. Cooperatives work hard to mitigate the risk of wildfire ignitions, and conduct regular system inspections and upgrades and vegetation management. They work closely with their members, their communities, first responders, and land managers to mitigate wildfire risk and resiliency.

Poor forest health outside of a utility’s right-of-way increases the risk of wildfires. Utilities can mitigate for wildfire only in and around their rights-of-way and cannot control the conditions of

[1] Public Utilities Code Section 2776

land and forests beyond. However, the forest health and community design surrounding the right-of-way affects the strength, severity, and pace of spread of a wildfire.

Federal and state land management policies and restrictions directly impact our ability to perform vegetation management activities, even within our rights-of-way, as well as the risk we bear due to fuel loading and public land management decisions. Legislation is needed at the federal level to ensure we are able to conduct vegetation management expeditiously and efficiently in our rights-of-way. We strongly support solutions such as the bipartisan Fix Our Forests Act (S. 1462 / H.R. 471), which is co-authored by Senator Padilla.

There is not a "one size fits all" mitigation strategy for utilities. Each utility must assess its own risk profile, local terrain, and system design to determine the best mitigation measures. Electric cooperatives often cannot afford expensive technologies, such as the use of LiDAR for wildfire mitigation. Undergrounding infrastructure can also be extremely cost-prohibitive and impossible to permit in some areas. Further, the utilization of high-tech wildfire mitigation measures has been driven by the investor-owned utilities' ability to earn a return on their investment, regardless of cost-effectiveness. Affordability is not an abstract concept, but a real constraint for small utilities that serve economically disadvantaged communities and want to maximize the efficacy of a wildfire mitigation investment.

Addressing Wildfire Liability

Electric cooperatives are subject to multiple layers of liability for wildfires, even if they are not the cause or could not prevent an ignition. On federal lands, electric cooperatives are subject to strict liability, or liability without a finding of fault, for $1 million on Forest Service Lands and now nearly $4 million on Bureau of Land Management lands. They also must pay natural resource damages and fire suppression costs.

Electric cooperatives are also subject to applicable state tort and strict liability laws (notably inverse condemnation in California), which can result in millions or billions of dollars in damages. This could bankrupt an electric cooperative, which is not in anyone's best interest. If a not-for-profit utility goes bankrupt, what replaces it will only be more expensive for consumers without reducing risk. Therefore, we urge the California Earthquake Authority to consider three solutions that would augment the wildfire mitigation investments being made by rural community-focused utilities, stabilize the wildfire insurance market, and support electric rate affordability.

1. **Adopt a negligence standard for liability.** A negligence standard would more appropriately assign liability and better incentivize utilities to proactively and cost-effectively mitigate risks. We must resolve the unreasonable strict liability standard that rural utilities are held to, especially when a utility has taken significant steps to mitigate risk to serve remote areas. Not-for-profit utilities that develop and implement wildfire mitigation plans that follow reasonable best practices for mitigation should be held to a liability standard that reflects their proactive mitigation efforts. Strict liability is creating a utility insurance crisis by punishing *all* utilities, even those that are doing their part to mitigate risk.

2. **Limit the overall amount and types of fees and claims recoverable**. Limiting elements such as the amount of attorneys' fees recoverable or the overall amount of liability may be helpful

in reducing exposure for utilities. In addition, we support limitations on subrogation claims similar to what was circulated in proposed legislation during the 2025 session. However, we believe California would be better off with limits on the types of liability, as opposed to capping overall damages. The danger in any damages cap is that the cap becomes the demand and essentially becomes a strict liability type of payment. This would not result in the same incentive to comply with wildfire mitigation plans that liability protections would provide to not-for-profit utilities.

3. **Fund hardening for both homeowners and utility infrastructure.** We support making funding available to property owners in high-risk areas to implement protective measures such as defensible space and home hardening. Public funding is also necessary to assist not-for-profit utilities in implementing costly mitigation measures, such as undergrounding powerlines in very high-risk areas where feasible or dramatically expanding rights-of-way. It should be noted that investments in infrastructure hardening must be accompanied by streamlined permitting to make such investments feasible.

Each of the above measures would also help stabilize the utility wildfire insurance market. Wildfire liability has resulted in utilities being unable to obtain wildfire insurance coverage in California, with reinsurance becoming impossible to procure. Such an inability to obtain coverage not only jeopardizes the reliability and affordability of electricity in rural areas, but also the ability to provide service at all. Wildfire risk affects some not-for-profit utilities' ability to access the capital needed to make investments to upgrade service. In essence, strict liability laws are driving up insurance and borrowing costs and making it more difficult to invest in the infrastructure upgrades that need to be made, all of which results in higher costs for electric ratepayers.

Golden State Power Cooperative members continue to seek comprehensive solutions to address the intensifying risk of wildfire and the looming wildfire insurance crisis. We need the tools to act quickly and we need your support to reform California's strict liability laws to stabilize the insurance market. We look forward to continuing to collaborate on behalf of the rural communities we serve.

Sincerely,

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