Los Angeles Department of Water & Power
BUILDING A STRONGER L.A.

Karen Bass, Mayor
Board of Commissioners
Nurit D. Katz
Allan T. Marks
Wilma J. Pinder
Benny B. Tran
Chante L. Mitchell, Secretary
Janisse Quiñones, Chief Executive Officer and Chief Engineer

December 12, 2025

Tom Welsh
Chief Executive Officer and Administrator of the Wildfire Fund
California Earthquake Authority
400 Capitol Mall, Suite 1200
Sacramento, CA 95814

Laurie A. Johnson PhD FAICP
Research Study Director, SB 254 Natural Catastrophe Resiliency Study
California Earthquake Authority
400 Capitol Mall, Suite 1200
Sacramento, CA 95814

CEA SB 254 Study: LADWP's Proposal for a Stable and Resilient Liability Framework

LADWP recognizes and commends the objectives of the legislature and California Earthquake Authority to address climate mitigation, resiliency, and affordability issues resulting from catastrophic event risk in California.

As a city owned and governed entity, LADWP's financial health and cost of addressing risk are borne 100% by the public (as ratepayers and taxpayers). As climate-driven risks intensify, communities and the essential service providers they depend on are facing rising costs and affordability challenges, underscoring the need for a long-term strategy that protects public utilities and supports residents. As many families are already struggling with affordability, near-term solutions are also imperative for vulnerable Californians to thrive now and into the future. As an essential service provider, LADWP requires new tools to mitigate the exponentially increasing cost of insuring against financial risk from catastrophic events.

1. Why Catastrophic Liability Reform Is Needed

While wildfire liability may represent the most significant financial risk for many California utilities, other climate-driven threats, such as floods and drought should also be considered when planning for catastrophic risk mitigation and response. The totality of natural disaster threats to utility operations are growing, as are the financial complexities of climate adaptation. Strategies and solutions that have been relied upon in the past are no longer sufficient given today's realities. One strategy requiring a new approach is management of liability risk.

Under inverse condemnation, California utilities are currently exposed to unlimited and uncapped damages regardless of fault. This uncapped exposure is too large and expensive to insure against using commercial insurance. The risk of loss is so large, it has already resulted in

bankruptcy of the largest utility in California, several landmark pieces of legislation, and a need to revisit legislation multiple times to provide more relief.

The cost of such exposure continues to grow and strain ratepayers, many of which already face affordability concerns. Direct financial impacts on ratepayers have included significant increases in costs of insurance[1], risk premiums, and borrowing costs. Facing uncapped liabilities, many utilities in California have resorted to self-insurance programs that lack the efficiency and effectiveness of a robust commercial insurance market to absorb and stabilize risk.

Rating agencies, which guide the market on investment risk, have warned that public utilities will be subject to downgrades and higher borrowing costs without structural liability reform. For LADWP, Moody's has indicated that without legislative action enabling LADWP to realign its organizational structure and policy framework to address wildfire and emerging environmental liabilities, the utility could face a credit downgrade[2]. While credit concerns have been somewhat alleviated in recent months, early market reactions to the January 2025 fires illustrate the urgency of reform; borrowing costs increased within weeks by about 3.5%, showing that the current unlimited, uninsurable liability structure is no longer tenable for large municipal utilities.

Without reform, these pressures will impact LADWP in three key areas:

- **Affordability:** Increase customer bills due to higher financing and insurance costs, directly impacting the affordability of utility services for individual ratepayers and households and leading to a disproportionate effect on low-income customers.
- **Infrastructure Investment:** Constrain investment in reliability, resilience, and clean energy by diverting capital to liability reserves and emergency borrowing rather than infrastructure upgrades.
- **Financial Stability:** Threaten the credit quality and long-term financial stability of LADWP, other municipal utilities, and potentially even each of the associated government owners by weakening debt-service metrics and access to the capital markets.

Additionally, without predictable liability treatment, LADWP faces long-term uncertainty that complicates capital planning and limits its flexibility to achieve its public service objectives and meet state clean-energy goals and mandates. LADWP emphasizes that catastrophic liability reform that creates both boundaries and more certainty is urgently needed to stabilize borrowing costs, protect affordability for individual households, and ensure LADWP can continue to deliver safe, affordable, reliable service while meeting clean-energy commitments for today and the future generations.

---

[1] A recent PNNL review of utility wildfire risk notes that liability insurance costs for some utilities have "risen substantially" in recent years, including roughly 35x for PacifiCorp between 2018–2023 and 16x for PG&E between 2015–16 and 2020–21. (Source: Pacific Northwest National Laboratory, *Wildfire Risk: Review of Utility Industry Trends*, July 2025)

[2] Moody's, *City of Los Angeles, CA and Los Angeles Department of Water & Power Water System* https://www.moodys.com/research/City-of-Los-Angeles-CA-and-Los-Angeles-Department-of-Credit-Opinion--PBM_1420581#43a8448cd586cc337393e892c967c35e

2. Why Publicly Owned Utilities (POUs) Like LADWP Require Unique Treatment

POUs such as LADWP do not have access to the $21 billion wildfire fund established under AB1054 or the $18 billion fund created under SB254. POUs' ability to participate in such wildfire funds are complicated by their public ownership structures.

- **Public Mission**: POUs prioritize public objectives, including affordability and reliability, and are required to charge only for cost of service pursuant to Propositions 26 and 218.
- **Settlement Costs**: Any financial shocks, including liability settlements or runaway judgements, are borne entirely by ratepayers. POUs lack an investor base to absorb volatility. Any dollar of uncapped liability ultimately flows back to the same households, businesses, and communities exposed to the event.
- **No Shareholder Equity**: POUs are 100% debt-financed, with all costs borne directly by ratepayers. Any form of contribution from ownership would effectively just be additional charges to taxpayers or ratepayers.
- **Customer Base**: For POUs, city-collected rates and taxes are from the same individuals. Cost responsibility cannot simply be shifted from ratepayers to taxpayers, making it essential to keep life affordable for the community. In addition, legislation limits POUs from using ratepayer funds to provide low-income assistance, making catastrophic risk costs that are embedded in rates regressive in nature. This is particularly worrisome for LADWP, as more than half of the communities we serve are characterized as disadvantaged.

Although many POUs may desperately need some form of catastrophic exposure protection, fund structures like those in AB1054 and SB254 do not work efficiently because of how POUs are organized. Fund structures previously developed in California used a combination of shareholder, ratepayer and taxpayer contributions. Absent the existence of shareholders, funding to establish and maintain a fund would fall more heavily on either ratepayers directly or indirectly as taxpayers.

POUs have also had a unique relationship with the Federal Emergency Management Association, or FEMA. Post catastrophe, POU access to FEMA capital has been vital to efficiently fund initiatives and implement risk mitigation measures that directly reduce long-term liability exposure. Given the federal government's review of FEMA, the CEA should also ensure any state resolution is structured to adequately fill potential gaps resulting from FEMA reform.

3. LADWP's Proposed Core Tenets to Shape the SB254 Reform Mandate:

LADWP has identified guiding principles to shape any reform effort:

- **Mitigate and Efficiently Address Potential Liabilities and Manage Claims:** Address uninsurable, uncapped liability exposure, and establish standards of care for utility mitigation investment and associated go-forward liability (as many states enacted recently, including Arizona, Idaho, Wyoming, North Dakota and Montana).
- **Ensure Public Service Providers Retain Access to Capital:** Implement structural reform to ensure adequate access to capital and affordable financing, including relief needed to maintain investment grade credit ratings.

- **Ensure Individuals Have Access to Funds Needed for Recovery:** Ensure individuals have access to compensation following a catastrophic event, including disruptions in available insurance during transitions that may flow from liability reform.
- **Moderate Cost to Ratepayers:** Limit rate impacts and pair reforms with resilience investments, with a focus on keeping utility bills affordable for all, particularly low-income, vulnerable, and disadvantaged customers.
- **Prioritize Clean Energy Goals:** Protect access to capital to fund clean energy commitments, including LADWP's commitment to 100% carbon-free energy by 2035, and avoid liability-driven costs that crowd out decarbonization investments.
- **Continue Reliable Service**: Ensure dependable service for customers through sustainable investment.
- **Ensure the Long-Term Stability and Health of Cities and Counties that own POUs:** Ensure both public utilities and their sponsor cities remain financially sound and avoid defaulting on their respective debts. LADWP is owned by the City of Los Angeles, and the stability of LADWP is inseparable from the stability of the city itself, which must be viewed as a single, unified entity.

These tenets balance financial stability with utilities' public obligations, overall safety, consumer affordability, reliability of service, and clean energy leadership.

4. Potential Solutions for Liability Reform, Wildfire Fund Creation and Resilience

To address the need for catastrophic liability reform, several concepts merit exploration:

- **Liability Reform Caps**: Establish annual aggregate limits, event-based caps, per-claimant caps, and punitive-damage limits. Such reform is being explored throughout the country, including in Arizona, Hawaii, Idaho, Montana, Kansas, Oregon, North Dakota Utah, and Wyoming.[3]
- **Standards of Care and Safe Harbors for WMP Compliance**: Establish required standards of care to ensure appropriate safety investment and preparedness, which may be tied to items such as approved mitigation plans and vegetation management plans.

To address the insurance needs of utilities and individuals, several structures should be evaluated either as a transition fund, focused on addressing victim recovery beyond a shared liability level for periods while insurers adjust away from an uncapped liability framework and insurance markets are stabilized, or a broader fund in the event liability reform is not fully enacted immediately. Fund strategies may include:

- **Large Coverage Funds**: Multi-state or multi-peril (fire, earthquake, floods, etc.) funds to spread risk more broadly.
- **All Utilities Wildfire Fund**: Expand wildfire fund structures to make available to all California utilities (IOUs and POUs), while still ensuring that POU funds do not subsidize insurance companies or IOU shareholders.
- **POU Wildfire Fund**: Creation of a POU-specific fund, potentially supported by state capital or reinsurance.

[3] Alternatively, modifications to inverse condemnation could best address such concerns and align California with the 48 states that use fault-based frameworks.

- **Self-Insurance and Reinsurance**: Modeled reserves paired with catastrophe bonds to stabilize costs.
- **Cost-Sharing and Continued Participation**: Financing models that equitably allocate funding requirements across POUs based on size, risk exposure, and fiscal capacity and that tie fund participation or liability protections to measurable mitigation performance.

Investments in resilience also play a key role in providing a comprehensive solution for POUs and utilities alike. Direct funding toward grid hardening, vegetation management, and detection technology should be considered. Enhanced state support could also include:

- **Permitting**: Substantive reforms to current permitting processes for wildfire mitigation activities, including further exploration of CEQA exemptions or waivers.
- **Data**: State-funded data collection initiatives, such as the deployment of cameras, satellites, and weather monitoring stations, along with the infrastructure needed to analyze and utilize this data effectively.
- **Research**: Support for university-led programs that develop innovative climate resilience tools and technologies tailored to the specific needs of communities served by POUs.
- **Undergrounding**: Establishment of a POU Undergrounding Program that offers flexible opportunities to expedite undergrounding of electric infrastructure in fire-prone areas, including provisions for state-backed bonds, grants, or low-interest financing mechanisms to minimize the financial burden on ratepayers.

A combined solution—pairing liability reform with interim measures to ensure adequate insurance for individuals and resiliency investments—may be the optimal approach, addressing both exposure reduction and individual recovery needs. Ultimately, we believe the CEA will recognize findings that have emerged consistently across similar studies: that risk mitigation is essential in light of catastrophic risk in California, and that a functioning insurance market is critical to allow individuals protection against catastrophic loss.

While a transitionary period may be required for insurance markets to recalibrate to liability reform, households and businesses in high-risk areas may face coverage gaps and elevated premiums, and utilities may need to rely on larger self-retentions and alternative risk transfer. Bridge insurance mechanisms, supported by the state, reinsurers, or public–private partnerships, can help protect individuals in the immediate term and maintain coverage while reforms take effect and markets adjust. Absent a functioning insurance market in the long term, however, continued top-up funds and investment in recovery will prove unsustainable and divert essential decarbonization investments. Addressing this challenge requires a shared responsibility across stakeholders to invest in prevention, land management and oversight, readiness, suppression, and extinguishment.

5. Insights from Current Trends and Developments

As the CEA is aware, several Western U.S. states have recently enacted legislation and regulatory frameworks that address wildfire liability reform, funding mechanisms, and mitigation standards. Overall, there are trends and developments for pairing clearer standards of care with defined limits on exposure that are important for CEA to review:

- **Utah – SB 224 (2024)**: Authorizes a utility-specific, ratepayer-funded wildfire claims fund and, where an approved WMP is in place and materially complied with, limits

property recovery to the lesser of rebuild cost or diminution in fair market value, caps non-economic damages at $100,000 (no physical injury) or $450,000 (physical injury), applies a two-year statute of limitations, and lifts these protections if there is no approved WMP or material noncompliance.

- **Idaho – SB 1183 (2025)**: Requires commission-approved WMPs and creates a rebuttable presumption of non-negligence if the utility reasonably implemented its plan at the cause of the fire, while tying recovery to existing Idaho limits that focus on suppression costs, economic loss, and constrained non-economic and punitive damages except in willful or reckless cases.
- **Wyoming – HB 0192 (2025)**: Requires approved WMPs and annual compliance orders, mandates pre-suit good-faith negotiations, and allows economic recovery only where plaintiffs show WMP noncompliance caused the loss or the presence of gross negligence/malice/criminal intent, with non-economic damages permitted only for injury or death.
- **Montana – HB 490 (2025)**: Requires approved WMPs and provides a rebuttable presumption of no negligence when a utility substantially follows its plan at the ignition point, while limiting wildfire recovery to suppression costs, economic damages, and either diminution in value or reasonable restoration, eliminating non-economic damages except for bodily injury or death, and clarifying insurer subrogation.
- **Arizona – HB 2201 (2025)**: Requires WMPs, provides that compliance with an approved plan meets the standard of care for a reasonably prudent utility, bars inverse condemnation for wildfire claims, narrows punitive exposure, and protects utilities from fault being allocated for ignition sources and vegetation risks outside their reasonable control.
- **North Dakota – SB 2339 (2025)**: Clarifies that strict liability does not apply to wildfire damages and provides a rebuttable presumption of reasonable care when a utility follows its WMP.
- **Texas – HB 145 (2025)**: Authorizes ratepayer-funded self-insurance for wildfire where it is more cost-effective than commercial coverage and provides that a utility is not liable if it complied with relevant WMP measures for the equipment at issue and did not act intentionally, recklessly, or negligently.

6. Conclusion

LADWP and other POUs face a pivotal moment. Without addressing uncapped, uninsurable liabilities, rising borrowing costs and catastrophic risk will erode affordability, reliability, and clean-energy progress. Instead, we can create a balanced framework in California and strengthen the entire wildfire recovery ecosystem. —ensuring victims are compensated promptly, communities remain resilient, and utilities can continue delivering safe, affordable, and sustainable essential services.