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Date: November 3, 2025

To: Administrator of the California Wildfire Fund

Re: *California Earthquake Authority (CEA) Wildfire Fund Administrator Call for Contributions to the SB 254 (Becker) Study*

The Personal Insurance Federation of California (PIFC) is a statewide trade association that represents thirteen of the nation's largest property and casualty insurance companies. Collectively, these insurance companies write over 80% of the home insurance premium in California.

The National Association of Mutual Insurance Companies (NAMIC) consists of nearly 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States.

PIFC and NAMIC recognize this study follows multiple unsuccessful efforts by California's Investor-Owned Utilities (IOUs) to limit their liability following at least eleven IOU-caused electrical fires since 2017. However, the IOU's attempts to reduce their responsibilities to fire victims are inappropriate and undermine the safety imperatives needed to prevent future electrical fires. We offer the comments below with the hope that stakeholders can engage in productive conversations about how utilities can fund the damages arising from fires they cause, reduce hazard and risk, preserve incentives for responsible behavior by IOUs, and protect the rights of fire victims. Instead of engaging in another effort to shift financial responsibility for utility caused fires to others including fire victims and insurance companies.

Pivotal CPUC Decision

Today's debate about "outflows" from the Wildfire Fund are rooted in a 2017 California Public Utilities Commission (CPUC) decision, where the CPUC denied San Diego Gas & Electric's (SDG&E) request to recover $379 million in fire-related liabilities from the 2007 Witch, Guejito, and Rice fires from their electrical ratepayers.[1] The CPUC found that SDG&E had failed to "reasonably manage and operate its facilities" beforehand, so shareholders—not ratepayers—should bear the costs under the "prudent manager" standard.

California utilities had previously recovered such costs through rates. Although the 2017 CPUC decision was specific to the behaviors of SDG&E and facts of those fires, IOUs viewed this decision as a broken covenant upon which their business model is based. As the damages from IOU caused fires increased following the 2017 and 2018 wildfires,[2] this led to laws such as Senate Bill 901 (2018) and AB 1054 (2019) to address wildfire risks and create the Wildfire Fund.

[1] Decision 17-11-033 (November 30, 2017) on Application 15-09-010.

[2] 2017 North Bay Fires, 2017 Thomas Fire, 2018 Camp Fire, and 2018 Woolsey Fire.

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Shift from Cost Recovery to Liability Reduction

Instead of negotiating with state government to develop a socially acceptable mechanism for funding the costs of utility caused fires that maintained the confidence of utility investors, the IOUs blame a constitutional doctrine for their woes: inverse condemnation.

Inverse condemnation is a constitutionally based claim derived from the Takings Clause (Article I, Section 19 of the California Constitution). The Takings Clause provides that when the government damages or takes away (condemns) private property for a public use, the property owner is entitled to "just compensation." Following the 1986 Linda Levee collapse in Yuba County that killed two people and destroyed/damaged 3000 homes, the California Supreme Court ("Paterno" decision), held that victims of the levy failure could sue the State of California for failure to maintain the flood management system. The State paid victims over $460 million under a theory of inverse condemnation finding it was the State's responsibility to remedy the levee's structural inadequacy that caused the damages.

Application of Inverse Condemnation to IOUs

In 1979, the California Supreme Court, in *Gay Law Students Association v. Pacific Telephone & Telegraph Co. (PT&T)*, applied the Equal Protection Clause of the California Constitution to a state-sanctioned, private telecom monopoly that discriminated against gay job applicants because its monopoly status and extensive state regulation effectively made its actions attributable to state action, despite it being a private entity. The Court found that PT&T was "more akin to a governmental entity than to a purely private employer." Over the years, various constitutional provisions have protected individual plaintiffs against the conduct of privately-owned companies that enjoy a state-protected monopoly including railroads and IOUs. Despite what IOUs have told policymakers, California has applied the state constitution to government-sanctioned, private monopolies for over 40 years.

The first significant case that applied the Takings Clause to IOUs was *Barham v. Southern California Edison* (1999), followed by *Pacific Bell v. Southern California Edison* (2012). More recently, Edison unsuccessfully argued the matter again, seeking to avoid Takings Clause liability in *Simple Avo Paradise Ranch v. Southern California Edison* (2024). In each case, California appellate courts have applied the Takings Clause to IOU-caused fires finding:

- IOUs perform a public function
- IOUs enjoy a state protected monopoly on the distribution of electricity
- The harm from IOU's facilities is for public use; and
- Costs of inverse condemnation liability may be spread among ratepayers through rates approved by CPUC.

That last point — the ability to "socialize" costs — was central to the appellate courts' rationale. They held that if a utility had to pay compensation under inverse condemnation, it could recover those costs in rates, distributing the burden across the customer base.

However, IOUs argue that the CPUC broke this long-understood covenant when it decided that cost recovery is not automatic, that a utility's behavior matters, and an IOU must demonstrate it acted prudently before passing fire liabilities onto ratepayers. This is what Southern California Edison argued in its recent court loss in *Simple Avo Paradise Ranch.* IOUs have experienced challenges as the CPUC, courts and policymakers have declined to allocate more risk and burden for utility caused fires to ratepayers, wildfire victims and insurers.

This study should focus on how IOUs can fund the cost of utility-caused fires while maintaining financial stability and investor confidence. If the CPUC believes that the behavior of utilities is a factor in deciding whether IOUs can socialize their wildfire liabilities to ratepayers, it is unreasonable to suggest that utilities should shift financial liabilities to insurance policyholders and wildfire victims by undermining inverse condemnation or imposing limits on subrogation recoveries (which are constitutional rights that cannot be legislated away).

IOU's History of Destruction

It is important to protect communities that have suffered because of utility caused fires. Reducing liability for IOUs would decrease utility incentives to exercise prudent judgement. This study should foremost consider the need to protect Californians, strengthen accountability, and ensure utilities prioritize safety.

Over the past decade, catastrophic fires triggered by IOU's equipment have inflicted devastating losses on communities across California, triggering over $45 billion in insured losses. These fires include some of the most deadly and destructive fires in California history:

- **Camp Fire (2018)** – Caused by a PG&E transmission line failure in Butte County. Burned **153,336 acres**, destroyed over **18,800 structures**, and claimed **85 lives**, making it the deadliest and costliest wildfire in state history.
- **Woolsey Fire (2018)** – Sparked by SCE equipment. It burned nearly **97,000 acres**, killed **three people**, and destroyed more than **1,600 structures.**
- **Dixie Fire (2021)** – Ignited when a tree contacted PG&E distribution lines. It burned approximately **963,000 acres**, becoming California's second-largest wildfire on record.
- **Eaton Fire (2025**) - The U.S. government has sued SCE, alleging its faulty equipment caused the Eaton Fire. Federal prosecutors argue SCE negligently failed to maintain its power lines, allowing a fault on a transmission line to spark the blaze that burned over **14,000 acres**, destroyed **9,418 structures**, and resulted in **17 fatalities.**

Moral Hazard Dilemma

California cannot ignore the moral hazard when confronting utilities. If the maximum penalty a utility faces for catastrophic wildfires caused by their equipment is capped or their financial liability is shifted to others, preventive investments may seem more expensive than the capped liability. This risk calculus would embolden not only negligent but even reckless or criminally irresponsible behavior, because the downside is artificially limited. The public safety implications are clear, utilities operate critical infrastructure in high-risk wildfire zones and weakening the financial consequences for unsafe operation increases the likelihood of repeat disasters, with mounting costs to the public, the environment, and the insurance market.

Worsen California Homeowner's Insurance Market Crisis

California's homeowners' insurance market is facing a severe crisis driven by rising costs, inflation, and escalating wildfire losses—many of which stem from the negligence of IOUs. In recent years, multiple major insurers have pulled back from writing or renewing homeowner's policies in high-risk areas because of unsustainable losses and outdated regulatory rules that prevented rates from reflecting actual wildfire and reinsurance costs. Only recently, following the implementation of Insurance Commissioner Ricardo Lara's Sustainable Insurance Strategy, has the market shown signs of stabilization and gradual recovery. There should be no doubt that allowing IOUs to shift tens of billions of dollars of financial risk to insurance policyholders will significantly drive-up rates and worsen the insurance availability crisis.

How to fund IOU-caused fires

We urge the Wildfire Fund Administrator to focus on an appropriate response to the 2017 CPUC decision and its underlying rationale. While the State may be unwilling to provide a blanket guarantee that IOUs can socialize the entire cost of utility-caused fires to utility ratepayers - there must be further discussion about the impacts of not doing so in relation to the long-term viability of IOUs under such conditions. Ideally, IOUs will prevent further fires, but it is not clear they are able to do so — particularly when their efforts to increase rates to pay for system hardening are met with significant pushback and they are excoriated for public safety system shutoffs during dangerous fire conditions. There is no doubt that IOUs face a difficult set of circumstances, and we all need their valuable services. However, the answer should be to find an agreeable method of funding the costs associated with their services without it devolving into subsidies from unrelated pools of people, whether they be fire victims or insurance policyholders.

Sincerely,

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