Liberty
701 National Avenue
Tahoe Vista, CA 96148

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Tom Welsh, Chief Executive Officer
California Earthquake Authority
801 K St Ste 1000
Sacramento, CA 95814

RE: Responding to Natural Catastrophes – New Models and Approaches

Dear Mr. Welsh:

Liberty Utilities (CalPeco Electric) LLC ("Liberty") is one of California's three small and multi-jurisdictional utilities (SMJUs) in heavily forested high fire threat areas. Liberty appreciates the opportunity to contribute to the California Earthquake Authority's study on new models and approaches to complement or replace the Wildfire Fund. As we noted over 18 months ago when we met with you, Liberty strongly believes that all California electric utility customers deserve equal access to the insurance protection offered by California's Wildfire Fund from the impacts of skyrocketing insurance premiums.

This abstract details the urgent situation of SMJU customers regarding wildfire insurance, presenting one model for consideration to address inequities. While Liberty believes this model could work, Liberty is open to other creative models that yield the essential outcome to provide all of California's electric utility customers equal access to California Wildfire Fund protection, not limiting the fund just to large electric utility customers.

SMJUs Have Unique Concerns

As an SMJU serving a high fire threat district, Liberty has unique concerns. Affordability concerns for SMJUs that serve high fire threat territories are heightened with staggering wildfire-related costs driven by inverse condemnation, poor forest health, greenhouse gas reduction programs, and differences in operating structures and service territories. The cost to pursue these measures is not necessarily less in aggregate for SMJUs. However, SMJUs have far fewer customers to pay for these measures, creating a unique affordability crisis for SMJU customers.

Beyond its small size in rate base and number of customers, Liberty is unique in its high wildfire risk. Over 90 percent of Liberty's transmission and distribution (T&D) lines is in High Fire Threat Districts (HFTD), whereas larger utilities have an average of only 50 percent of their T&D lines in HFTDs. Liberty carries more risk per mile of service territory and has the same Wildfire Mitigation Plan (WMP) obligations but lacks tools that larger utilities have, including California Wildfire Fund access. Sixty percent of Liberty's requested rate increase in its pending General Rate Case is related to wildfire insurance.

Liberty customers endure tremendous costs because of the exceptionally high percentage of HFTD in the service territory, requiring extensive, expensive wildfire mitigation. Moreover, Liberty has only approximately 50,000 customers to share these costs. In contrast, San Diego Gas & Electric (SDG&E) has about 1.49 million electric customers, Southern California Edison (SCE) has

about 5 million customers, and Pacific Gas & Electric (PG&E) has about 5.7 million electric customers. An SMJU customer bears a significantly greater cost for wildfire mitigation than a large IOU customer. The difficult combination of a high fire threat territory and a tiny customer base exacerbates affordability challenges for SMJU customers.

Addressing Inverse Condemnation and Unaffordable Insurance Would Help Utility Affordability

SB 254 attempts to address utility affordability concerns, a theme woven through CEA's study. Steps that can be taken to address affordability and complement the Wildfire Fund's intent include:

- *Addressing Inverse Condemnation*—Under California's inverse condemnation law, utilities are responsible for damages from fires started by their equipment, whether or not the utilities were negligent. This strict liability standard means compensation can be sought regardless, even when a utility acted prudently. Strict liability shifts the financial burden to customers, who ultimately pay through their utility bills for wildfire costs. Liberty recommends revisiting California's inverse condemnation law as it applies to utilities and wildfires. Some considerations may include moving to fault-based liability, liability limitations, requirements for agencies investing in wildfires to issue clear findings regarding utility actions and whether they were prudent or violated safety or industry standards, and exploring alternative funding mechanisms beyond the state's Wildfire Fund.

- *Expedite Vegetation Management and Healthy Forest Practices* – Utilities carry wildfire insurance in light of inverse condemnation and the need to protect utilities and their customers from financial devastation from damage claims. Utilities are paying more for premiums but getting less coverage. In addition to rising premiums and difficulties in obtaining coverage, many insurers are withdrawing entirely from California. Marsh McLennan, a U.S. insurance broker, recently found that wildfire insurance rates increased 30 percent in 2024 alone. This trend will only continue.[1]

  Several factors contribute to high wildfire insurance costs, most notably California's high risk of catastrophic wildfires and the impact of paying significant losses from previous wildfires. California has passed legislation over the past decade that has contributed to wildfire risk mitigation, including requiring utilities to develop and implement wildfire mitigation plans. Another factor in this mitigation equation is achieving healthy forests. Pursuing measures to expedite and streamline the ability to conduct vegetation management and healthy reforestation would contribute to mitigating the risk of catastrophic wildfires and place downward pressure on wildfire insurance rates.

One Potential Model for Allowing SMJU Customers Access to Wildfire Fund Protection

When the California Wildfire Fund ("Fund") was established in 2019, SMJUs had to elect by June whether to participate in the Fund. The required shareholder contributions, the threshold to access claims, and the limits on amounts that could be accessed were barriers to entry, and

[1] "Wildfire Threats Make Utilities Uninsurable in the US West," *Financial Times,* June 24, 2024.

the SMJUs were not able to participate in the Fund. A potential model is to revisit the legislation creating the Fund and provide a more realistic optional path for SMJUs to participate.

The Fund has several structural inequities, including:

- Requiring SMJUs to meet a $1 billion claims threshold to access the Fund, a value that exceeds the entire combined SMJU rate base, while representing only three to 11 percent of the large IOUs' rate bases.
- Capping access at three times SMJU total contributions, a limit not imposed on larger IOUs.

A potential pathway for SMJU participation includes:

- Similar initial and annual contribution ($625 and $25 per customer) as the current participants' required contribution.
- Customer contribution: $0.005/kWh, consistent with existing structure.
- Defining eligible claims as "claims for third-party damages against an SMJU resulting from covered wildfires exceeding the greater of (1) 20 percent of the utility's rate base in a High Fire Threat District (HFTD), or (2) the amount of the insurance coverage required to be in place for the electrical corporation."
- Elimination of the statutory fund cap specific to SMJUs.
- Requirement for safety certification, aligning with AB 1054's standards.

This Potential Model Should be Included in the Study

This potential approach is fully consistent with § 917's direction to examine alternative structures to socialize risk and new models to complement or replace the California Wildfire Fund. Clearly, wildfire risk is not proportional to utility size, but the current backstop rules are. This is the structural problem Liberty is asking the Study to document and address. A single large wildfire could force disproportionate rate impacts or threaten solvency for an SMJU, which is exactly the type of market instability § 917 tells CEA to study and prevent. In fact, this model addresses several study requirements, including:

- § 917(c)(2): "alternative structures to socialize risk… while maintaining accessibility to property insurance and access to safe, affordable and reliable energy."
- § 917(c)(5): "measures to benefit ratepayers through reducing costs caused by fiscal uncertainty…"
- § 917(c)(10): "new models to complement or replace the California Wildfire Fund…"

This model maintains equity (everyone pays on a comparable per-customer basis) and accountability (safety certification), but right-sizes the eligibility threshold and removes the

SMJU-only cap. Further the safety certification requirement directly addresses § 917(c)(3) and (8) on mitigation, vegetation management, and community hardening.

This proposed model addresses several of the topics guiding this study:

- Accessibility and affordability of insurance (§ 917(c)(1)) – A Fund pathway for SMJUs is an affordability measure because it prevents rate shock from a single catastrophic event in a tiny customer base.
- Alternative structures to socialize risk (§ 917(c)(2)) – A tiered Fund is an alternative that does not displace the current Fund; it extends it.
- Benefits ratepayers and reduces fiscal uncertainty (§ 917(c)(5)) – Allowing SMJUs stabilizes revenue requirements and makes rate outcomes more predictable for the 1% of customers otherwise exposed to tail risk.
- Streamlining compensation & reasonable limitations (§ 917(c)(6)–(7)) – If California seeks fast, full payment to injured parties regardless of which utility's line ignited the fire, then excluding the smallest utilities from the state backstop is counterproductive.

Conclusion

Bringing California's SMJUs into a right-sized statewide wildfire-risk backstop serves many important purposes and goals of this study, including:

- Closing an obvious equity gap (1% of IOU customers currently excluded);
- Reducing fiscal, rate, and credit risk for small utilities serving the most fire-prone areas;
- Aligning with SB 254 / PUC § 917 directives on alternative risk-sharing structures, affordability, and market stability; and
- Implementing without altering the existing large-IOU rules — it is an added lane, not a rewrite.

Liberty respectfully requests that CEA include this SMJU participation pathway as one of the discrete options analyzed in the Study under PUC § 917.

Respectfully submitted,

Eric Schwarzrock
President
Liberties Utilities (CalPeco Electric) LLC