



SOUTH SAN JOAQUIN
IRRIGATION DISTRICT

April 22, 2019

Commission on Catastrophic Wildfire Cost and Recovery
Governor's Office of Planning and Research
1400 10th St Sacramento, CA 95814
wildfirecommission@opr.ca.gov

Commissioner Carla Peterman, Chair
Commissioner Dave Jones
Commissioner Michael Kahn
Commissioner Pedro Nava
Commissioner Michael Wara

Re: Response to Request for Comment

Dear Commissioners:

South San Joaquin Irrigation District ("SSJID") appreciates the opportunity to submit these comments in response to the questions posed by the Commission on Catastrophic Wildfire Cost and Recovery ("Commission"). These comments respond to "*Question 5. Miscellaneous*" seeking recommendations for ways to reduce wildfire damage and costs and ensure a more equitable distribution of wildfire costs and liabilities.

**I. MUNICIPALIZATION IS AN IMPORTANT STRATEGY FOR BOTH
REDUCING WILDFIRE DAMAGE AND COSTS AND ENSURING A MORE
EQUITABLE DISTRIBUTION OF WILDFIRE COSTS AND LIABILITIES**

"Municipalization" of an electric utility is the process by which a municipal or publicly owned utility ("POU") assumes responsibility and control of a portion of an investor-owned utility's ("IOU") service territory and becomes the retail electric provider therein. Municipalization reduces wildfire damage and costs, and ensures a more equitable distribution of wildfire costs and liabilities in three main ways: (1) the payments made to the IOU in the purchase of the IOU's electrical distribution system assets would generate stable funds that could be used to pay the liabilities of the IOU to victims of wildfires that were caused by the IOU; (2) spreading wildfire management and liability responsibility for that service territory acquired by the POU, thereby reducing the IOU's overall liability to a more manageable level; and (3) putting electrical distribution system operation and maintenance in the hands of locally-owned and controlled operators that provide localized workforces and response services, which would reduce wildfire

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probability and severity, and therefore liability. While not every geographic area is appropriate for municipalization, those areas willing and capable of forming a POU should be encouraged and enabled to so.

A. Asset Sales to POU's Can Generate Important Funds for Wildfire Victims

IOUs can generate substantial liquid funds through the municipalization process, depending on the size of the distribution electrical system that is sold to a given POU. For example, in 2016, SSJID offered Pacific Gas and Electric Company (“PG&E”) \$116 million to acquire 112 square miles of PG&E’s electrical distribution system within SSJID’s service territory in southeastern San Joaquin County; the amount offered represented SSJID’s assessment of the fair market value of the system at the time. SSJID is but one example, in an isolated area. PG&E could avail themselves of this option and realize tens to hundreds of millions in sales for the benefit of wildfire victims to which PG&E is liable.

For a utility like PG&E that is facing wildfire liability so crippling that it is undergoing bankruptcy, cash flow from asset sales to willing, and able POU's will generate significant funds to compensate the victims of the numerous wildfires that PG&E’s electrical equipment – and possibly PG&E’s mismanagement of and/or failure to maintain its electrical equipment – has caused. It should be noted, the California Public Utilities Commission is considering the role asset sales can play in the SB 901-mandated “stress test” to limit the amount of disallowed wildfire-related costs recovered from ratepayers through the Public Utilities Code 451.2 process. Here too, the Commission should seriously consider the important role asset sales by PG&E could play in raising much needed capital for California wildfire victims.

B. Spreading Distribution System and Attendant Wildfire Management to POU's Willing to Assume Such Responsibilities Will Reduce Wildfire Liability for All Utility Customers

Municipalization spreads wildfire management and liability to POU's who are willing and able to assume such responsibilities. Public entities that are able to undertake municipalization have a strong motivation to do so: PG&E has repeatedly failed to meet acceptable safety and performance standards, and it is in POU's best interests to take affirmative action for their customers rather than remain at the mercy of PG&E, even if—and it’s a very large *if*—PG&E’s safety culture is completely overhauled as promised.

There is a very strong motive for potential POU's to take the steps necessary to ensure that the next tragedy does not occur in their own respective communities, and enabling them to assume responsibility allows them to take those steps, which are otherwise largely out of their control. Moreover, the municipalization process will make PG&E’s service territory smaller, and allow PG&E to better focus on managing the specific wildfire risks and liability of the territory it serves outside POU's. By segmenting service areas between PG&E and POU's, planning, operations, maintenance, and wildfire prevention can be likewise be segmented, as well as liabilities stemming therefrom. Spreading wildfire safety planning and response duties to POU's through municipalization will thus reduce wildfire costs and liability for all California utility customers — both municipalized and those remaining with the IOU.

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C. Putting Locally Controlled and Operated POU's in Charge of Wildfire Management Will Reduce Wildfire Costs and Liability

POUs are, by their very nature, community-focused, locally governed, not-for-profit entities held directly accountable by their ratepayers. As such, they are equipped to implement and successfully enforce a wildfire management and safety culture. With the open meetings and other transparency laws applicable to POU's, combined with direct access to decision makers for the public, potential safety issues are identified and publicly exposed in their early stages, instead of when they reach crisis level or after tragedy strikes.

Ownership, including maintenance, and operation of a POU's electrical system is entrusted to locally-elected officials, who are held directly accountable to their constituents. This "direct accountability" doesn't just manifest itself at election time—locally-elected officials live in the community they represent; they interact with their constituents on a daily basis; and just like their constituents, they are subject to the policy decisions they make. Therefore, a POU governed by locally elected officials has every incentive to put safety as its first priority. This "direct accountability" holds true to a POU's workforce as well: POU employees tend to live in the service area, and are likewise held accountable by their neighbors, friends, and family members within the community.

Furthermore, POU officials and employees living in a particular community possess critical local knowledge of the area's weather, geographic conditions, and other information that enables them to provide superior wildfire prevention and response services that will reduce overall wildfire liability.

II. SSJID IS STATUTORILY AUTHORIZED TO BECOME A POU; PG&E OPPOSITION DEMONSTRATES A NEED FOR A SIMPLIFIED MUNICIPALIZATION PROCESS FOR SSJID AND OTHER SIMILARLY SITUATED ANTICIPATED POUS

SSJID is located in southeastern San Joaquin County and is engaged in protracted legal proceedings to acquire PG&E's electrical distribution system within its service territory.¹ SSJID is an example of a public entity (more specifically a special district) that is willing and capable of operating the retail electric system within its service territory by exercise of its statutorily authorized power provided under California Water Code section 22115.

SSJID received approval from the San Joaquin Local Agency Formation Commission ("SJLAFCo") to provide retail electric service within its service territory, subject to certain conditions that have been contested through lengthy, ongoing litigation by PG&E. The crux of this litigation is that SSJID offered to make other public entities dependent upon PG&E payments derived from PG&E's property tax and other payments "whole" in the departure of PG&E, as a condition of approval by LAFCo. The payments proffered by SSJID would not have

¹ See *SSJID vs. PG&E* (Appeal from Judgment of Dismissal Pending: In the Court of Appeal for the State of California, Third Appellate District Case Number C086319 Superior Court for San Joaquin County Case No. STK-CV-UED-2016-0006638), and *PG&E vs. San Joaquin LAFCo*; (SSJID, Real Party in Interest In the Court of Appeal of the State of California, Third Appellate District, Case No. C086008 Superior Court for San Joaquin County, Case No. STK-CV-UJR-2015-0001266) **both cases are presently stayed** per PG&E bankruptcy filing.

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been borne by ratepayers, but would rather have been derived from independent, positive revenue-generating sources owned by SSJID.

Other willing and capable POU's that could operate portions of PG&E's retail electric system within their service territories can likewise be expected to encounter similar hurdles and obstruction by PG&E and other IOUs unless an expedited process to municipalization can be implemented.

SSJID respectfully requests that the Commission examine ways in which municipalization of IOUs can contribute to meaningful efforts to reduce wildfire damage and costs and ensure a more equitable distribution of wildfire costs and liabilities. To that end, the Commission should consider recommending the enactment of legislation that would simplify the municipalization process. The Commission's report to the Governor and Legislature should acknowledge the ways in which POU's reduce and more equitably distribute wildfire costs and liabilities and include recommendations to prevent obstructionist behavior by PG&E or other IOUs in the POU transition process and to help ensure that that IOUs participate in the process in good faith.

Sincerely,

SOUTH SAN JOAQUIN IRRIGATION DISTRICT



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