Commission on Catastrophic Wildfire Cost and Recovery
April 3, 2019
Meeting Minutes

10:30am-2:00pm
Sonoma County Board of Supervisors Meeting Chambers
575 Administration Drive, Room 102 A
Santa Rosa, CA 95403

Please Note: These meeting minutes are not meant to be a transcription of the Wildfire Commission meeting; they are notes taken by staff. For a full record of what was discussed, please refer to the video recording found at: https://www.youtube.com/watch?v=D2stbjI-R-I&feature=youtu.be

Item 1: Call to Order

Chair Carla Peterman: Good morning. We are here in Santa Rosa for our April 3rd meeting. Welcome to everyone in the room with us and on the webcast.

Item 2: Roll Call

Present:
Chair Carla Peterman
Commissioner Michael Kahn
Commissioner Michael Wara
Commissioner Dave Jones (arrived at 10:45am)

Not Present:
Commissioner Pedro Nava

Chair Carla Peterman: Commissioner Jones will be joining us in a few minutes. Commissioner Nava had an unavoidable delay so he will not be joining this meeting, but he will be following our webcast. We are also joined by our Executive Officer, Evan Johnson.

Item 3: Agenda Changes

Chair Carla Peterman: Commissioners, any agenda changes? I do have an agenda change. Supervisor Gorin will be joining our panel on Community Needs Around Wildfire Damages. Any other agenda changes?

Item 4: Initial General Public Comment

Chair Carla Peterman: Now is our opportunity for our first session of public comment. I would like to welcome Supervisor Gorin who will be giving us a welcome to her community. Welcome, Supervisor, and thank you for allowing us to use your facilities.

Susan Gorin: Commissioners, thank you so much for being here this morning and agreeing to participate in this discussion and hear from our community. As you know, we have experienced significant damage from the 2017 wildfires and sadly I am one of the families who lost their homes in the fires. We have lessons to share with you, both personally and professionally, as we have reorganized the County to appoint a number of team members to move us forward on recovery and resiliency. I will have some more comments later on in the program, but I want you to know that the now trite statement, “This is a marathon not a sprint,” is ever so important to Santa Rosa and Sonoma Counties. I am one of the homeowners who has yet to move forward with rebuilding. Over half of the homes lost are not yet in some process of rebuilding, but our community is energized and looking forward to working with you. We need your leadership to take our messages and our lessons to Sacramento so that we can be part of the collaboration, working together to prepare for resiliency in the future.

Chair Carla Peterman: Now is the time for general comment. We do have time for public comment at the end of the session. If you can stay for the day, we encourage you to make comments then. If anyone needs to make comments now, we welcome you.

PUBLIC COMMENT 1: Russell Mills, Treasurer and Director of Risk Management, Sacramento Municipal Utility District (SMUD).

We have service territory in and around the state capital. Today I want to provide a few comments on the insurance market dislocation and the increased publicly-owned utility (POU) risk profile, along with considerations for a wildfire fund solution.

Due to inverse condemnation and strict liability, California wildfire insurance markets are not functioning. Insurers have no choice but to price risk and coverage much higher than is normally required or exit the market. Utilities are having difficulties obtaining and maintaining coverage at a reasonable cost. Recently, bond ratings agencies have started reassessing POUs’ financial risk to wildfire catastrophes and responsibility of claims. Bond ratings are a significant driver for utility capital costs and are required to maintain access to credit markets. Ratings reflect the financial risk of the utility’s financial obligations, considering all their potential risks, and lower ratings result in higher borrowing costs. Ratings have been placed on negative watch as a precursor for downgrading ratings as the obstruction of risk changes for the largest POUs in California. The largest southern POU last month was revised to negative watch. Just yesterday, SMUD was also revised to negative watch by Moody’s. Moody’s cites that the utility operating environment in California has become more challenging as legislators and other policymakers look for viable alternatives involving the application of inverse condemnation, while simultaneously balancing the potential impact on municipal utilities and ratepayers. Credit markets, while not completely dislocated from POUs, are largely becoming an issue that they are taking notice of. Down the line it could affect the POUs as it has the investor-owned utilities (IOUs).

Some considerations for a wildfire fund: it should result in real financial benefits and increased risk coverage for POUs and the ratepayers. If a fund is established, POU participation in a fund could be on an opt-in basis or if mandatory, would be most equitable if all California ratepayers are required to participate. It should be structured to work as a supplement to existing insurance and self-funding liquidity measures, including proper attachment points that would incentivize utilities to provide their ratepayers with adequate and cost-effective insurance coverage. A catastrophic wildfire fund must be more than just a pooling of shared ratepayer funds. It must offer a form of increased insurance coverage for POUs that they would not otherwise be able to retain in the market and should help California return to a more normal, functioning insurance market by making available alternative catastrophic funding mechanisms over the longer-term. Attachment points can help with pricing for underwriters.

Any fund with POU participation should be held in some sort of trust, such that the funds could not be repurposed for some other uses in the future – a true lock box fund with clearly defined funding, withdrawal, replenishment, and fund segregation guidelines. In a single fund with unclear segregation of funds, POU and IOU cross subsidization could result in the use of public funds to pay for private uses. This could result in issues for POUs maintaining their tax-exempt status, so we need to consult tax counsel on how this could work for a POU.

The State must also consider how funds can be replenished once drawn. Is there an implicit state funding backing with this fund? To include protections that ensure fund utility with significant claims that drain the fund or make it any other way insoluble for use by other electric utilities. Contributions that should count for participating utilities: relative risk profiles, number of customers, among other factors. A one size fits all approach may not work and could inherently shift cost burdens from IOUs to other, smaller utilities. The fund must be appropriately structured to be sustainable over multiple years, meaning it can withstand multiple years of high costs of catastrophic wildfires.

In closing, this is a severe issue affecting the entire state. Insurance markets are no longer functioning. Credit markets are beginning to show signs of potential future pressures involving POUs including SMUD and smaller utilities. Viable alternatives for funding are needed but need to be structured fairly and recognize that each utility has different risk profiles for funding.

Chair Carla Peterman: Mr. Mills, could you please stay for questions and I will also ask that you submit your comment to the Commission through the Executive Officer.

Commissioner Michael Kahn: If the State creates a fund, there will be a governance issue. If the fund includes IOUs and POUs, I assume that you are suggesting that there will be one governance structure over the IOUs and POUs for the purpose of the fund. Is that right?

Russell Mills: Yes.

Commissioner Michael Kahn: Do you think that the State will need to consolidate the wildfire plan oversight along with the fund? We have had recommendations from a number of IOUs that they worry about the fund and prudency issues and whether they are disqualified from the benefits of the fund if they don't follow their wildfire mitigation fund. My question is I don't understand how a fund that consolidates IOUs and POUs functions unless that same fund or governance also governs the wildfire funds. Can you explain that to me?

Russell Mills: In order for the governance structure to actually function correctly, consistency matters and all utilities should be held to the same standard in following their wildfire plans.

Commissioner Michael Kahn: So what you are suggesting is the creation of a wildfire fund that includes POUs and IOUs that has consolidated governance that governs this large fund but also governs the wildfire mitigation plans of all the utilities.

Russell Mills: I think it could be structured that way. I certainly think the funding mechanism is very important to have in place. The only way to access the funding maybe is to make sure the wildfire plans are followed and mitigation efforts are actually put in place that are actually published in these wildfire plans.

Commissioner Michael Kahn: I am sure that we and the Governor and the Legislature would be curious how to do this otherwise, how to disaggregate that. Otherwise, it seems to me that the suggestion is that you are consolidating.

Russell Mills: Right, I think that a consolidated fund probably works for statewide participation, but I think there needs to be some form of opting-in if it is not mandatory for everyone to participate.

Commissioner Michael Kahn: How does it work if it is not mandatory?

Chair Carla Peterman: Commissioner, may I suggest that we will be deep diving into this later today. Mr. Mills, will you be around?

Russell Mills: I will come back if you have questions.

Chair Carla Peterman: We will have an opportunity for stakeholders to provide detailed, written comments and recommendations. So in particular some of your feedback on the details of a fund would be appreciated, including Commissioner Kahn's question around voluntary or mandatory.

PUBLIC COMMENT 2: Jeff Okrepkie, Founder and President, Coffey Strong.

I am a once and future renter of Coffey Park here in Santa Rosa. I also happen to be the Founder and President of Coffey Strong, an organization that was started in the aftermath of the 2017 Tubbs Fire to help rebuild our community efficiently as possible while minimizing burdens for all of our residents.

The reason why I am speaking today is because looking at the agenda, you have a large section on homeowners' insurance; however, 40% of Sonoma County are renters, and statistically speaking – and Commissioner Jones knows this – roughly 25 to 30% of renters carry renters' insurance. In looking at the legislative slate last year, exactly one bill of all the bills passed, including all the insurance bills, affects renters. This is important because if you are doing the math, that is about 20% of homes that burnt to the ground – single-family detached homes, not just apartments – that had no coverage at all whatsoever.

This is important because it is not just an insurance matter; it is a cultural matter for the neighborhoods. A lot of these homes that were being built as investment properties were sold because it doesn't necessarily pencil to wait to build an investor property that you rent out so they were sold to investors that intend on flipping those homes and reselling them. In Coffey Park alone, we estimate that half or more of the properties that were once renters to homeownership. This is important because not only do renters culturally impact a neighborhood, they are also important for the economic state of the city. They are your service employees, hospitality employees, agricultural employees. If we lose renters, we lose the ability to lure young professionals and young families in these areas to help the economic vitality.

It is also important to note that the legislative slate that was passed did nothing for renters because the fundamental concept of insurance, especially in disasters, is the recovery in replacement of property and not other aspects like quality of life. When you look at it, it is a scenario where – there are studies from Harvard and other places that say – in a natural disaster, homeowners actually gain wealth, versus renters lose wealth. If you are a minority, it is exponentially worse. This is important because after a disaster you have 5,000 homes that burn in a regular scenario a single family detached home, it burns to the ground. If you rent, you can theoretically find another place to rent, but when the rental market is flooded by 5,000 people looking for a place to live, VRBO can come into the market and rent out at 125% of HUD (the Department of Housing and Urban Development) – and in this area for a 3 (bedrooms) 2 (bathrooms) is about $4,000 – the renters are automatically priced out, especially when insurance companies are willing to pay for homeowners to move in. So, my ask of you today is to take a look at renters' insurance and the ability for renters to stay in these communities and maintain their life because it is important.

Item 5: Consent Calendar

Chair Carla Peterman: Now we will turn to the consent calendar. We have one item on the consent calendar, which are the minutes from the March 13th meeting. Commissioners, any changes to the minutes? Hearing none, can I get a motion?

ACTION: Voting to approve March 13, 2019 minutes.
Motion: Commissioner Michael Wara

Second: Commissioner Michael Kahn
Commissioner Dave Jones: Aye
Chair Carla Peterman: Aye

Abstain: None

Item 6: Chair's Report

Chair Carla Peterman: I will do a very brief Chair's report. I would like to welcome you to our meeting. This is the third of four public meetings we are having around the state. By way of background, our Commission was created by legislation last year to assess, analyze, and make recommendations on how to more equitably allocate and manage the costs associated with catastrophic wildfires. We are required to give recommendations to the Legislature by July 1st. Everyone on the Commission comes with different expertise. I thank all my fellow Commissioners for volunteering their time to serve on this important Commission.

For further background on the Commission and topics we have talked about so far, I will refer you to our website: http://opr.ca.gov/wildfire/. That is also where you can see all of the public comments we have and hear information about future meetings.

Our Executive Officer will be talking to you about specific comments we would like to receive, in written format, over the next few weeks. We welcome written comments at any time but in particular as we plan for our fourth meeting, we will be focusing more on specific recommendations and proposals. We would like to hear from all of you in advance regarding any specific proposals as well as any reflections you have on the first three meetings. I will be speaking more to the timing of those comments. If you join our service list, you will get that specific notice. With that, I have no further comment. Does anyone else have any introductory comments?

Item 7: Executive Officer's Report

Evan Johnson: A few quick comments. Following this meeting, we will be putting out through the listserv a request for public comment with questions we would like to address. They will be a pretty quick turnaround and details will be in that notice. We are looking for likely an April 15th turnaround for those particular comments. Please, if you haven't done so, join the listserv. In addition, I want to announce that we will have our next meeting on April 29th in Oxnard. More details will be on the listserv, so please join that to receive the notification of the time of that meeting.

Chair Carla Peterman: I would like to note that if you respond to the questions, you do not have to respond to every question. Just respond to the questions that are most relevant to you. We are looking to get as much information as possible and cast a wide net before we focus down on our actual recommendations.

Item 8: Presentation of Expert Testimonial

Chair Carla Peterman: Today we will be focusing on the homeowners' insurance market as well as broader financing mechanisms for managing liabilities and costs. So let me invite our first panel up.

PRESENTATION 1: Homeowners' Insurance Market
- Joel Laucher, Chief Deputy Commissioner, California Department of Insurance (CDI)
- Rex Frazier, President, Personal Insurance Federation of California
- Amy Bach, Executive Director, United Policyholders
- Tom Welsh, General Counsel, California Earthquake Authority (CEA)
- John Rollins, Actuary, Milliman, and former Chief Risk Officer for Citizens Property Insurance Corp

Joel Laucher: Please refer to this link for the presentation: http://opr.ca.gov/meetings/wildfire-commission/2019-04-03/docs/20190403-Joel_Laucher_Commission_on_Wildfire-Santa_Rosa_April_3.pdf

Rex Frazier: Please refer to this link for the written testimonial: http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_Rex_Frazier_Testimony_at_April_3_Meeting.pdf

Amy Bach: Written testimonial is currently unavailable. We will post written testimonial if it becomes available, in the meantime please refer to the archived video for full comments.

John Rollins: Please refer to this link for the written testimonial: http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_John_Rollins_Testimony_at_April_3_Meeting.pdf

Tom Welsh: Written testimonial is currently unavailable. We will post written testimonial if it becomes available, in the meantime please refer to the archived video for full comments.

Chair Carla Peterman: Thank you all. Tremendous amount of content. I wish we had more time to hear, but we look forward to having more follow up conversations with you. We will now take 15 minutes for discussion and questions. I recommend that we all start with two questions. Commissioner Jones, would you like to tee us off?

Commissioner Dave Jones: I have a question for the Department of Insurance. Our enabling statute requires that we consult with the Commissioner of Insurance and the Department. I would like to get some specific policy recommendations from you that are consistent with the bullet points on your slide where you showed some additional recommendations that insurance consumers should be able to rely on their coverage behavior. Also, any updates to the recommendations contained in the Department's January 2018 report (The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-

Urban Interface and Other High-Risk Areas of California) would be helpful and also consistent with the statutory direction we have.

Question for Mr. Rollins: I would like to make sure I have the context right. Hurricane Andrew basically caused a total seizing up of the homeowners' market in Florida. Correct?

> **John Rollins:** Yes, Commissioner.
>
> **Commissioner Dave Jones:** California 2018, crisis in Santa Rosa. There are only 33,000 FAIR Plan policies written in the State (California) versus about 11 million homes. So, would you characterize the condition that our market is in currently as being similar to the Florida market at the time that Citizens and all the apparatus that you just described?
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> **John Rollins:** I would not characterize the condition of your market as nearly as severe as the crisis that faced Florida in 1993. No one has provided your Executive Officer with statistics in terms of our view of the market composition and market health in California. Briefly no, I don't think you are there yet, but I do think some of the themes regarding the institutions and mechanisms that Florida chose to implement might be things that California finds instructive as you face the smaller warning signals in your market.

Commissioner Dave Jones: I am particularly interested in the explicit linkage between mitigation efforts and the availability of crisis insurance. That is something we can learn from Florida.

Mr. Welsh, with regard to the exception of the Earthquake Authority, would you characterize our fire insurance – the homeowners' insurance market development – as the conditions that led the Legislature to create the Earthquake Authority in 1994?

> **Tom Welsh:** If I were to compare them, I would say that the availability environment in 1994 was significantly worse. But I will need to stay in my earthquake lane because I am not as conversant on what the environment availability looks like now and how it will evolve. But certainly, if you were comparing apples to apples, there was a serious availability crisis in 1995-1996 after those earthquakes that precipitated.

Commissioner Dave Jones: Mr. Frazier, if the Department of Insurance would modify its regulations to allow homeowners insurers to include the cost of reinsurance in their rates, would your members make a legally binding commitment to insure the homes that are currently declining to renew or insure in the wildland-urban interface?

> **Rex Frazier:** That is tough for me to say what they would do. I would be happy to have that discussion with them, but there seems to be little doubt that, as pricing flexibility would be re-introduced, one would have to think that the market would respond.

Commissioner Dave Jones: So I did ask that question when I was Insurance Commissioner and offered to change those regulations if I could get a legally binding commitment from the homeowner writers to insure those homes, and they declined to make that commitment. So I appreciate the suggestion. I would like to give Mr. Laucher a chance to respond specifically to why the Department of Insurance disagrees currently with the notion of allowing the price of reinsurance in the rates.

Joel Laucher: The reinsurance market goes, as Mr. Frazier mentioned, at a market rate irrespective of risk or anything else. It is what the market will bear. We have a prior approval rate system in California to allow a non-regulated component to potentially dominate that rate regulation system. This would undermine the system itself by creating prices beyond the State's control. I would also mention that when we showed the slide with the 200% loss ratio, all of those losses are considered in the insurers' rates even though we know a huge portion of those losses are being paid by reinsurance. We calculate rates on a direct basis even though the insurer may be getting reimbursement from its reinsurance for many of those losses. That isn't part of our system.

Commissioner Dave Jones: So you don't incorporate the cost of reinsurance, but you also don't back out of the billions of dollars in payments that insurers get from reinsurance when you calculate your losses for the purposes of setting rates going forward.

Joel Laucher: That is exactly right.

Rex Frazier: May I add one piece of information? What Joel indicated, there are two classes of business that are permitted to include a percentage of their costs of reinsurance in their pricing. Is that correct?

Joel Laucher: There are two that allow modeling of risk. Is that what you are referring to? Earthquake, for example?

Rex Frazier: Yes.

Joel Laucher: I don't know that there is the cost of reinsurance for this.

Rex Frazier: But I thought, for an earthquake, you can include up to 30%. I thought that was the range.

Joel Laucher: That is right.

Rex Frazier: It is not as if what we are proposing is unprecedented because it is already permitted for two classes of catastrophic business. It is not a 100% pass through, it is a percentage basis. In my written comments, I will cite the regulations so you can understand what we are suggesting.

Commissioner Michael Wara: My questions are going to concern how well we understand this risk because that is critical to our thinking not just in the homeowners' market but also in characterizing the risks faced by utilities. I heard some discussion from Mr. Rollins about the importance that the State of Florida placed on developing a scientific and publicly vetted basis for characterizing the risks. It is my understanding that, since Andrew, there have been investments in catastrophe models to simulate hurricane risk and risk to individual structures from landfalling hurricanes in the United States. I would be interested to hear from the panel how they would characterize the state of wildfire modeling and risk-based wildfire price setting today. Do we believe the models? Do we have concerns about the models? Do we have bias in the models? Where are the places we should we be investing in understanding our risks in California?

John Rollins: As actuaries, we are the downstream users of catastrophe models. What the models put out, we then take up and decide how to fairly and non-discriminatorily put into insurance rates. I think it is fair to say that wildfire modeling is not as mature, scientifically as well as for computing, as hurricane or earthquake modeling. I would rewind to the Florida experience in 1993 and Hurricane Andrew, hurricane modeling was not as mature then as it is now. I would characterize what Florida did as perhaps taking a little bit of a leap of faith – in terms of setting up a commission to vet these models, setting up a catastrophe fund, and establishing Citizens Property Insurance – to allocate costs in a local way so that, for example, Orlando residents don't pay as much as Miami residents for hurricanes in their insurance premiums.

But we did that when we knew that models were less mature than they are now. What has changed is the rate or pace of change of technology. It has accelerated. The use of big data and the ability to model on a highly granular level now is unbelievably far advanced to what it was in the 1990s. We still vet hurricane models sometimes on a zip code basis; that is not acceptable in the wildfire area and will never be acceptable. Fortunately, the technology and the data has improved significantly. As actuaries, we like the trajectory of where wildfire modeling is going. We express no particular opinion on the policy of regulating wildfire models, but again, you can turn to Florida and say that state chose to hitch its wagon to modeling because it didn't want the extreme rate increases right after Hurricane Andrew that would have been caused by using only the recent history. But it also put a bunch of guard rails in place and it is overseen by various bodies and there are a lot of statutory and regulatory citations, but I will bore your Executive Officer with those citations.

Amy Bach: I can share what is have gleaned from participating at the National Association of Insurance Commissioners – over the time that we saw the development of computer modeling as a new way of replacing traditional underwriting. Developing a public model is valuable because the privately developed models that are being sold to insurance companies are vulnerable to having the dials shift to desired outcomes. The public model in Florida has been a huge help. Also, regulators generally are struggling to keep up with technological advances. In general, our department is right there with them. Things have happened so fast with the fire score modeling having such an influence. The last thing I want to say is that I was with an engineer yesterday and we discussed how changes in a privately derived model can affect the market and it can be extreme. When RMS (Risk Management Solutions), which is a modeling company, changed their model to RMS 11 in 2011, a lot of people pinpointed that as triggering a crisis in availability and affordability. That is a definite fact I wanted to share with you.

Rex Frazier: If I may offer an observation, certainly the use of these vendor tools that insurance companies have had access to allow the analysis to be a lot more granular for which communities. We try to be more discerning about what parts of each community they can remain in. Whereas in the past, you might get a cruder decision of we can't write above x number of feet in the mountains or under these conditions. It was a more primitive approach. At least with the modeling, I think they can be more granular in their decision-making and stay in a lot more places.

Of course, whether they are explicitly regulated by statute or not, the Department of Insurance will not allow a use that it is uncomfortable with. There is certainly a push and pull in that environment because as the Department is figuring out the robustness of the model, they are also considering public policy issues. Should we allow highest risk numbers to increase linearly in price versus push it on a curve so it flattens off at the higher level? The Department is trying to figure out if these are good models and do we start to change the models in a way that can impose subsidies on lesser risk properties in order to shield people from the highest impacts?

Commissioner Michael Kahn: I want to focus my questions on the effect of law changes and the notion that there is a crisis. Mr. Laucher, I would like to take a look at slide 9 – this is the FireLine Wildfire Rate Factors slide. I would like to see data for as many carriers as you can provide for this so we can provide an accurate reflection to the Legislature about this means. You have given us one example. Is there more data for us?

Joel Laucher: This is simply a proposal by one insurer. It is their projection. I don't know that we will ultimately approve this because it is a significant increase all along that ladder that you see. This is meant to show the insurer's reaction. We probably have a pretty steep ladder that is approved for some other insurers at this point. The current FireLine score factors are probably the more meaningful ones from this chart to show the differentials today. The issue that we face with these models as regulators – while they have some what appear to be logical conclusions based on, in this case, fire science – is that they are not credible in terms of the data applied. We don't have $50,000 losses for a risk score 30 in the last five years to validate these data points.

Commissioner Michael Kahn: I understand that. For me, the value of this is that it is a proposal. I will predict that you are unlikely to give these people greater increases than they would ask for.

Joel Laucher: That is correct.

Commissioner Michael Kahn: This gives me an outside parameter of what the reaction to the fires is and, therefore, I would like accumulated data for as many of the carriers that I can get as so that I can understand what the worst case is. Could you do that for us please?

Joel Laucher: I will say FireLine is used by a small number of insurers. Some use CoreLogic, several use their own proprietary models so there isn't a standard scale for scoring, but I will get you what we have.

Commissioner Michael Kahn: If you take a look at this slide, the FireLine score, that is was Commissioner Wara was talking about. That is the modeling internally of the insurance carriers and their prediction of fire risk. Isn't that right?

Joel Laucher: This is the prediction of the rate differential that should apply. It's not a prediction of loss itself but of fire risk differential.

Commissioner Michael Kahn: If we take a look at this, your 0 to 9 is well over 90% of the policies. The first score, 0, is the overwhelming number. So I am trying to understand the effect of law change on rates and if it would initiate a crisis. It seems to me that if the inverse condemnation law were changed one way or the other, the 0 fire score would not change in terms of the rates.

Joel Laucher: The rates actually are not set based on anything to do with condemnation or reimbursement by the utility. They are based on a projection of loss for the coming year. Insurers don't count on whatever recovery they may or may not get from a utility when setting or projecting those rates.

Commissioner Michael Kahn: Are you saying that changing inverse condemnation would have no effect on rates?

Joel Laucher: It would have an effect a few years down the road in terms of reducing the catastrophe loadings that went into the rates. In these most recent fires, because we have had multiple years with massive losses – 2015, 2017, 2018. This 20-year catastrophe load that we talked about – insurers in California may not like all the time – is a way to measure the impact that will apply to rates, but when you have significant, three major years of catastrophes in the last five years, plus other events in that 20-year continuum, that CAT load starts to be a significant amount of the rate. So it would be reduced somewhat by a recovery from a utility. But we already have a couple of those major fires that weren't utilities; they determined to not be from a utility. So insurers don't predict future rates based on recovery from a utility.

Commissioner Michael Kahn: What you are telling us is that there is no reason to predict that change to the inverse condemnation law will result in a crisis for the insurance. Right?

Joel Laucher: Insurers have gotten big recoveries. I can't predict what they will do. I am sure they would hate to lose the opportunity of having someone to go after if that party is responsible for the loss. It does have an impact on the catastrophe load. I can't say what insurers would or wouldn't do. But that catastrophe load and that impact is probably more important as to whether they might write in certain areas than certainly in that 0 area where there is no likelihood of loss in areas.

Commissioner Michael Kahn: The board is supposed to recommend changes in the law or not and I am trying to understand if there is a consequence here.

Joel Laucher: There is a consequence to the catastrophe load and maybe in insurers' willingness to write because they may take into account the possibility of a recovery. But, I would say as generally rates are set, they don't necessarily when they put together the rates for next year take into account recovery an insurer may or may not get from a utility. It does not play an immediate role insurance rates, which are very reactive to the most recent and for the very near future.

Amy Bach: People have been relying on where a wildfire destroyed their home and they found themselves underinsured. Two-thirds of the people do. The ability to collect from a utility has been extremely valuable and helpful and insurers, as Joel said, have been using their subrogation rights to recoup what they have been paying out. If they have less funds available and if there is a reduction in the utility's liability, I would assume that it will aggravate the affordability and availability problem.

Chair Carla Peterman: My first question goes back to a line of questioning from Commissioner Kahn. Ultimately, in order to think about how to equitably allocate costs, we have to know who is paying the cost now. I would like to get a better understanding of how much of the insurance loss currently is requested to recover from third parties, whether that be utilities or others. I don't need answers to that now but helping us to put those loss numbers into context.

My second question gets at one of the leading ideas out there to help deal with the cost with some type of state-supported fund where we are pooling investments from different stakeholders. Does anyone have any thoughts about how the insurance companies themselves will participate in such a fund? Specifically the companies and not just the policyholders in helping to capitalize additional funds. There has been discussion about utility shareholders, ratepayers, other taxpayers. What role do you see for insurance companies?

Rex Frazier: Are you asking about the insurance companies in particularly without talking about anyone else whether local governments or anyone presently involved in litigation with the utilities. Would insurance companies pay money to fund a fund that they would make claim from?

Chair Carla Peterman: Somewhat, yes. There is a lot of nuance in what you said.

Rex Frazier: Ultimately, the insurance companies or wildfire victims or local governments would suffer from utilities that burn down communities. They didn't cause that fire. So the notion that people who incurred financial harm are then asked to put money in – is an insurance company supposed to tell its urban Los Angeles customers that they will take some money and fund a wildfire fund that other people will make claim to?

Chair Carla Peterman: I am coming from the perspective that these companies are in the business of managing risk and can make a profit from managing that risk. The companies themselves in terms of helping to support a mechanism that provides greater assurances to all customers in the state. I will be more direct. More specifically, are there opportunities for the insurance companies to contribute from their bottom line to help capitalize funds?

Rex Frazier: For utility liabilities?

Chair Carla Peterman: For fires caused by utility infrastructure or other causes.

Rex Frazier: Certainly when the insurance industry had its own market failure. I was at the Department of Insurance in 1995 and 1996 and was part of the team to negotiate the creation of the CEA. In that circumstance, the insurance industry was really unable to serve its customers in the homeowners' insurance market. Ultimately, the resolution was a difficult negotiation leading to the creation of the CEA, the insurance companies because they were asking for help put in I think $720 to $740 million of initial capitalization and they maintained a $4 billion contingent liability with the CEA for years. Now that number is down to about $1.7 billion dollars. Participating insurers retained that liability year in and year out. They at least understood in that circumstance that they were asking for help and were part of that solution.

We are not asking for help here. I am having a hard time understanding when utilities are saying they want state help, why would the response be to find someone else's pocket and say can you help too? When insurance companies are doing nothing more than seeking to get back as much money as they can for their customers because it is not as if paying for a gigantic fire pays that consumes 16 years of underwriting profit. If there is no recovery, of course that is going to impact rates.

Chair Carla Peterman: I think we will hear more in our meetings about what defines help. When I think about help, I think about the availability of reinsurance. There may not be a crisis in the residential insurance market at this point, but over time there might be. So I welcome input from insurance companies on how do we stop that future crisis? What role can we play now?

> **Rex Frazier**: It is important to realize that a company that would write residential property insurance doesn't necessarily get involved in big commercial risks or in the reinsurance market. These are different segments and pools of money.
>
> **Amy Bach:** To bring this back to mitigation – that is where we can find the most common ground among all players – I think we all acknowledge that wildfire mitigation research is behind hurricane and flood. With all due respect to Rex and his colleagues, I think the private insurers will have to be pooled. You heard Florida had to legislatively mandate mitigation discounts. As a personal chip on my shoulder, our organization applied to PG&E (Pacific Gas & Electric) along with two counties for a pilot wildfire mitigation program and they turned us down. This was before the fires. Clearly utilities and we all need to be making it easier for homeowners to do their part and that will require some sort of fund to finance research and programs. In terms of the development of a public model, we haven't talked about the social discussion around do urban people have to subsidize people who are choosing to live in harm's way. A lot of people would say, "I didn't choose. I have been living here the whole time." These are ongoing discussions but insurance is a pooling mechanism so, to a certain degree, all policyholders are somewhat subsidizing each other.

Chair Carla Peterman: Your comments align well with what we heard from the other two speakers. Even when we have other funds, they are doing other things beyond just covering loss; they are helping to invest in R&D (research and development) mitigation. So if we think about a fund as a broader concept, it seems there might be a role for the insurance companies.

> **Joel Laucher:** If I could just add on this pooling idea, Rex mentioned that models are great because they help segment and help an insurer choose to write some businesses they would otherwise turn away. When we get into these models, we end up with much less pooling over time. As you segment across 30 or 100 scores in the CoreLogic model, you are invariably cutting that pool into smaller and smaller ponds until somebody is out there in a baby pool and the rates will be extremely high. There are decisions to be made whether we go down some path of modeling or looking at pricing. You don't want to end up with it is now available but it is not affordable. We do want to try and keep as much pooling as we can and balance that with Rex's comments of not making it so that insurers won't want to offer the coverage.

Chair Carla Peterman: We are woefully out of time. The point of today is for people to hear our questions so we can get good information and comments for the few weeks. Let's go down the row and each Commissioner say what additional questions you would like to ask. We are not going to get answers now, but our Executive Officer can follow up and we can get more feedback both in written comments and at our last meeting.

Commissioner Michael Wara: I would have asked you all about the Hawaii catastrophe fund and funds that are designed to bridge through an interval to increase safety. In addition, I would have asked more about how FireLine scores factor into rates and what those factors mean in terms of dollar costs to homeowners. I would have asked you to reflect on not so much insurance contribution but if there were an insurance policy assessment that contributed to utility wildfire funding or reinsurance of some sort, whether that raises the same concerns or different concerns and how you think that could that be structured in a fair and equitable way? Some incremental contribution not the whole thing.

Chair Carla Peterman: I had the same second question as Commissioner Wara. The other question is if those reinsurance costs were allowed to pass through to policyholders, how big is that relative to actual premium costs now? What examples do we have from that in Florida? How much did the insurance overall go up once you factored in the reinsurance cost?

Commissioner Dave Jones: Part of our charge is to look at what's happening vis-à-vis the utility sector, inverse condemnation, and the strict liability standard on that sector. We had a panel that focused on their challenges with getting reinsurance and we talked about the possibility of creating some fund to address that. Now we are also looking at challenges in the homeowners' insurance market. We had a robust discussion of that today and some interest in talking about some sort of a government sponsored fund or scheme that would provide additional wildfire insurance for people that can't get it or subsidize its price. I think it is important that we make sure that these are related but different things.

On modeling, I would like to ask the panel to explain the difference between modeling for setting up insurance price versus modeling for deciding whether you are going to renew or write the insurance to begin with because those are two very different things. The Department gets to review the rate filings from insurers that have the models that Mr. Laucher alluded to and assess those for their accuracy, veracity, rationale, etc. But the Department does not get the models that are used by the insurers for purposes of deciding whether to renew or write the insurance alone. As Mr. Frazier appropriately pointed out, those are random models and that is a good thing, but I would have asked the panel to explain that difference and their views on whether the second set of models – which are the ones that actually look at the question of the underlying fire risk that a particular home faces, assign a score, and decide whether to renew or offer new insurance for that home – ought to be filed, approved, and reviewed by the Department?

Second, on this issue of R&D around models, I would be interested in a deeper dive by Florida into how that is funded, whether that is a general fund or by some consortium of payers into a fund.

Third, I am interested in each of your perspectives on the potential consequences of standing up a government scheme of homeowners' insurance at this moment in time and the consequences with regard to the costs of doing that to the state, the potential for sending the wrong signal with regard to the level of risk in both pricing and availability, and whether there are things short of that like linking requirements around mitigation to the provision of insurance that might be a better approach.

Commissioner Michael Kahn: I am very interested in the question of whether there is a crisis in the submarket. It seems to me that there are people who can't get insurance or can't get enough insurance. I would like your views on whether I am correct about that. It seems to me that chart 9 shows that. If that is accurate – and there is a crisis in a submarket that may be exacerbated by modeling and the focus that CAL FIRE is having by identifying 35 areas that have risk – what law changes should we recommend to deal with the crisis in that submarket?

My second question focuses on the comments that Ms. Bach made regarding underinsured or people who need to go to utilities for recovery. I am sympathetic with those people but I think there is also a subcategory of a greater number of people who have fires due to lightning or people who violate the Smoky the Bear requirement. If you put all of those people in a category – the insured, the people who are victims of the fires but are not receiving compensation, etc. – what should we do about that? What recommendations should we make that are not utility-specific and don't rely on the randomness of how the fire was created, but rather focus on victimization? What law recommendations can we make to address the problems those people are facing?

PRESENTATION 2: Utility Risk Financing Options

- Carolyn Kousky, Executive Director, Wharton Risk Management and Decision Processes Center, University of Pennsylvania
- David Heller, Vice President Enterprise Risk Management and General Auditor, Southern California Edison (SCE)
- Mark Toney, Executive Director, The Utility Reform Network
- John Fiske, Attorney At Law, Baron & Budd
- Steve Fleishman, Managing Director, Wolfe Research

Chair Carla Peterman: We will take public comments after this session. You are welcome to make comments today but we also welcome your comments in the future.

Panelists, as you know, financing options are a key issue that the Commission is looking at. We will do a deeper dive of specific proposals at our April 29th meeting, but given the breadth of options here, we wanted to do a panel today to help orient all the Commissioners and participants to some of the options. My big takeaway is that this is not the last time that you will talk to us about this. We appreciate your cooperation with our schedule.

We are going to begin with an overview presentation about financing mechanisms from Carolyn Kousky so that we all know the possible universe.

Carolyn Kousky: Thank you for having me and accommodating my remote participation. I wanted to tell you a bit about a report we put out a couple months ago that looks at mechanisms for California's electric utilities to finance their wildfire liability. In this work, we considered funded risk retention, essentially self-insurance, commercial insurance market, insurance securities, specifically catastrophe bonds, industry captive, industry risk pool, and recovery bonds. I will walk through and tell you a minute or two about each of them and where we came out on them.

First, I want to point out – as it has been clear from the discussion all day – that financing this risk is challenging. It is a potentially catastrophic risk so there are going to be loss years that are very severe. And when we are talking about the liability risk by utilities, it is concentrated on a few firms in the state, which makes it difficult to diversify. I also want to point out at the beginning that financing tools don't create money. That might sound obvious, but the risk has to be paid for one way or another. What financing strategies can do, two very important objectives of them, is to first allow access to capital in those high loss years – so when you have a severe wildfire year, having access to the fund to pay losses quickly and smoothly – and smooth that cost over time – so there is not a shock to ratepayers or the financial soundness of the utility or anyone else.

Now let me go through and say a bit about each of the mechanisms. First, risk retention. Clearly firms have to do some of this. We discussed being explicit about the layer of risk being held by the firm, essentially funded self-insurance and maybe using a dedicated rate component to build up a reserve account. The challenge is if fires become so frequent and severe in this state, this could essentially devolve into an annual contribution to cover those costs. That still might be useful, but it is different from what you typically think of with a reserve account. If that is wrong and wildfires are less than expected, then you are going to start to build up a lot of funds in the reserve, so you will have to have a mechanism in place to target what level of losses the fund is for and any excess would go back to ratepayers. It is also worth noting that reserve funds tend to work best for essentially the first layer of risk, but they can be challenging for higher magnitude, lower probability risk. It could be not cost-effective to hold that much capital or politically difficult or investors might not like that much cash just sitting around. There are a bunch of other things to consider when determining for what size reserve a firm would build up.

Next, we looked at the private insurance market and catastrophe bonds and I will talk about these together. Utilities have historically bought some amount of insurance and this is likely to continue. But right now it seems that the market is not there to really make use of these instruments in a substantial way or fully cover the growing wildfire liabilities. All the utilities have noted in public statements and public documents that the costs of insurance for them are way up and availability is down, following the 2017-2018 wildfire years. Indeed I have heard folks from the insurance industry noting that after these two years of wildfires as recently as last week I was told there is a concern that wildfire risk might be changing in the state in ways that in the industry are not fully understood and that a number of firms may be hitting the pause button and rethinking and reevaluating this risk.

We see something similar with catastrophe bonds. Catastrophes bonds place risk into the financial market and that is thought in theory to be used for risk that might be too large for the traditional insurance market and they might be attractive to investors when they are uncorrelated with other financial assets and could generate a higher return. But of course it is the loss of principle that makes these instruments inappropriate for investors and, as we have seen, if investors aren't comfortable with the risk and they usually aren't experts in natural hazards, they are not going to be interested or they will demand higher rates. PG&E and Sempra were both able to place small catastrophe bonds for this risk, but we have heard from others that at this point that there is very little investor interest in doing anymore third-party wildfire catastrophe funds as a concentrated risk that plays out over a long time period. These are actually I think the only ones for third-party liability that have ever been placed. Summarizing all of this, I think it is clear that there is always going to be some level of commercial insurance that utilities are purchasing, but it is not going to fully cover the risk. While we did talk to one or two people who were optimistic that maybe down the road in a few years there may be some role for catastrophe bonds to take part of this risk, in the near-term that is not a viable option either.

Next, we looked at taking an industry captive. These are insurance companies that are established by a parent company or companies in order to ensure the risk of the owner. They operate a lot like an insurance firm but they only provide coverage to the owner. This could be an option to pursue a bit more and there certainly is precedent in the electric utility industry. There are multiple captives in operation today, but you need to do some detailed, actuarial studies to see if, how, and when it would be cost-effective. They have been used historically in different sectors to cover difficult to insure risk and to save costs on risk transfer on hard markets, which might characterize the situation now, but more detailed would be needed on setting premiums, underwriting, claims adjusting, net capitalization, and management structures, and so on. On the one hand, you would have to see whether it would actually be cheaper than purchasing traditional insurance. The positive thing on the finances is that in no loss or low loss years, the premium could be retained as reserve or rebated back to the company.

We also looked at the creation of a risk pool. I know this has already come up today a number of times, but essentially any interested utilities would pool their risk, exchanging a share of their own risk for a share in the pooled risk. So the financial resources are combined and losses are paid out of the common fund. This would be member-owned and operated. There is a possibility to maybe tie this to mitigation. Some other types of pools have used access funds to fund mitigation investments or had some requirements for membership in terms of risk reduction. There are analogs and municipal pools. Municipal pools operate in every state. They were generally created for risks that were hard to insure, often liability risks. California law explicitly says that these municipal pools are not to be treated as insurance so they are not regulated by the Insurance Commissioner. I am not a lawyer, but it seems plausible this may then apply to a utility pool as well. Again, this is an option that would need some actuarial and hazard modeling. It is not going to be effective if utilities are just trading dollars with the pool. It is worth noting that pools tend to be a good idea when there is lots of independent risk because that is when mathematically you get the benefit of risk pooling. But here you might have a few entities and their risks are somewhat correlated in a sense that when you have weather conditions that produce severe fires, everyone is going to be facing them. Again, this would require some detailed modeling and this gets back to the discussion in the last panel about the state of wildfire models. I am not a modeler and I am glad this conversation is progressing and what the previous panel has said echoed what I have heard, which is that there may be a bit of caution in using these models. They are young. Storm surge models after Andrew now have decades of development and verification and validation. That is starting to happen with the wildfire models. I was told, for example, that they hadn't really accurately captured how severe winds can really blow embers very far distances and now they are being updated to include that. It is worth noting that in this context of financing for utilities, even after the hazard is modeled, you then need to model ignitions related to the utilities, unexpected damages to the properties, the legal environment, so it gets complicated. We were told by some stakeholders that that was an issue with the catastrophe bond as well. Some investors didn't feel comfortable that the modeling was at a place where it could fully capture that risk. To pursue a pool, then there are a bunch of design questions that need to be teed up and addressed: Who is in it? Is it the IOUs? Is it all POUs? Is it mandatory or not? What is the upfront capitalization? How are the premiums or donations set? It probably needs to be based to some extent on risk and size. How are those paid for? Is there a dedicated rate component? What are the specific coverages and the amounts? When does the pool begin? When does it stop? What do you do with the unspent funds? How big of a reserve? When do you give back to the company? There are a lot of in the weeds work to be done to make a pool a viable option.

The last thing we looked at was recovery bonds. This is the only post-even mechanism we examined. These are essentially bonds that are sold to investors to fund the damages and are repaid with interest over time. The one thing to say about this is you are likely always going to need these sometimes. For any financing situation, you could have a more severe event that exceeds what you designed and paid for, and this is your post-event mechanism. But you can smooth the process and also make it more attractive to investors if the cost recovery is clear and approved ahead of time.

So that is an overview of the different options we went through and I am just going to end by saying – and you heard this when talking about the earthquake authority too – there is not one silver bullet here that is going to solve the problem. The idea generally is to layer options together in such a way that creates a cost-effective financing tower and meets the other goals of the utilities and the regulators, which might include the degree of control they have over the risk, the distribution of the costs, and so on. This type of layering together of these financing options as you heard is something that insurance companies do. Lots of firms do this. It is not a novel problem but requires specific analysis of specific hazards and finances of the individual utilities. It is not always true but it is generally the case that it is most cost-effective to retain the higher frequency, lower magnitude risk, so that would be like a reserve account, then transfer the lower probability, higher magnitude risk, whether that is a pool or commercial insurance, then use the capital markets for tail risks.

I am going to end by saying that the report was focused on financing options, but clearly – this has come up by a number of people today – a critical, complementary conversation that has to be had is identifying, prioritizing, and figuring out how to fund cost-effective risk mitigation options. That includes not just risk reduction investments by the utilities, which is an important conversation, but also for the State because wildfires for California are much bigger than those just connected to utilities and gets to questions of land use, building codes, and all sorts of things that certainly may be outside the scope of the work we did but is important to flag nonetheless.

Chair Carla Peterman: Thank you, Dr. Kousky. For those not familiar with her work, she has written extensively on the range of financing mechanisms that are out there. We will make sure to post some of her work on our website. My big takeaway from your comments is that the mechanisms we are talking about don't reduce the overall cost but they make it easier to pay them quickly as well as pay them over time, perhaps reducing some of the shock to those who ultimately have to pay those costs.

We will be looking forward now to hearing from our panel about some of the different funding mechanisms they are thinking about and what they can accomplish. It is important for our Commission to lay out what are some of the options and what might become more available as we actually reduce some of the costs in mitigation efforts.

David Heller: Please refer to this link for the written testimonial:
http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_David_Heller_Testimony_at_April_3_Meeting.pdf

Chair Carla Peterman: In the interest in being really specific around terminology, it sounds like when you are talking about a fund, you are talking about some kind of pooled reserves. Would that be accurate to say that?

> **David Heller:** Yes, it is a funded insurance pool. It could take several different forms, but in essence that is it.

Mark Toney: Please refer to this link for the written testimonial:
http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_Mark_Toney_Testimony_at_April_3_Meeting.pdf

John Fiske: Please refer to the following links for the written testimonial:
- http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_John_Fiske_Testimony_at_April_3_Meeting.pdf
- http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_John_Fiske_Testimony_Appendix-1.pdf

- http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_John_Fiske_Testimony_Appendix-2.pdf
- http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_John_Fiske_Testimony_Appendix-3.pdf

Chair Carla Peterman: We have asked Mr. Fleishman, who follows what is going on in the markets, to give us some insights into what equity and bond markets might think about what we are hearing about now and generally how to think about this issue of financing mechanisms.

Steve Fleishman: Please refer to this link for the written testimonial: http://opr.ca.gov/docs/20190411-wildfire_comments_4-3-2019_Steve_Fleishman_Testimony_at_April_3_Meeting.pdf

Chair Carla Peterman: Commissioners, I do not want to short change the public who we are going to hear comment from nor the panel with community representatives, so I am going to request that we go down the line and have everyone say what are the questions you would like answers to. If we have time at the end, we will circle back and hear responses from panelists. Unfortunately, we do have a hard stop on leaving this room. I apologize for the circumstances but appreciate your willingness to work with the schedule. Commissioner Kahn, what would you like to hear at some point?

Commissioner Michael Kahn: I would like to hear a different report. Besides that, I will pass because I would like to hear from the community.

Commissioner Dave Jones: I will direct this to all the panelists, but I think it is more directed to Mr. Fiske and Mr. Toney who, as I understand it, are proposing a fund that would not just cover the utility's losses above a certain amount of self-retention insurance but would also be available to wildfire victims. I pose this question to anybody that is proposing a broader fund for wildfire victims: if I am a homeowner in a high risk fire area and I know there is a government fund that I can go to recover my damages, why do I buy homeowners' insurance?

My next question goes to the same individuals but also to anybody proposing such a broad fund: what is that going to cost the State to set up? The Florida citizens' proposal we heard about earlier was essentially funded initially by a fee or surcharge on all Floridians, which makes some sense because hurricane risk probably reaches most people in Florida. But in this state, we have a very different set of factors: we have some people living in an area where there is a high risk of fire and a lot more people living in an area where there isn't a high risk of fire. What is it going to cost to actually capitalize the fund that would be available for fire victims on a basis that would provide them insurance? And who is going to pay for that?

Commissioner Michael Wara: I would appreciate anyone who is proposing any kind of fund to explain the basis for the size of the current claims-paying capacity and provide a rationale for that capacity. If you have an opinion about what it should be and you haven't proposed a fund, I would love to hear it. Related to that, this sort of goes to what Commissioner Jones just said, can you solve the utility problem without covering underinsurance? Does that need to be part of the fund in order to create financial stability for the utilities? If so, how much does that increase the need for a claims-paying capacity?

Chair Carla Peterman: Dr. Kousky laid out several different financing mechanisms that utilities can take advantage of and Mr. Heller identified how we currently are utilizing many of those mechanisms. I would like to better understand are there any other actions the State could take that would increase the availability of some of those other options beyond a reserve fund, self-insurance fund, and is there a certain point at which we get to a certain lower level of total catastrophe costs that would make some of those options more available as well?

My next question is for you, Mr. Heller. You identified several mechanisms but it wasn't clear to me who pays for those. When you talk about, for example, the retention, is that something that ratepayers pay for or do shareholders pay for that? For all of what you are recommending, really understanding who the risk transfers to from all your suggestions and who bears those exact costs.

My final question, maybe for Mr. Fleishman or others, how does a utility's overall market capitalization affect their ability to contribute to any one of these solutions? We have circumstances where you have utilities with higher capitalization and others who are bankrupt. What are the interactions with some of these mechanisms?

We look forward to a deeper dive on April 29th. Next, we are going to turn to our local representatives.

PRESENTATION 3: Community Needs Around Wildfire Damages

- James Gore, Sonoma County Supervisor, District 4
- Susan Gorin, District 1
- Pete Parkinson, Fire Survivor, Retired Professional Planner & Past President of the California Chapter of the American Planning Association (APA)

Chair Carla Peterman: We appreciate the participation of Supervisor Gorin, Supervisor Gore, and Pete Parkinson and we ask them to give some insight into the cost the communities have borne. Given the time, perhaps you can share with us what you would like the Commission to be thinking about in the weeks ahead. Offline we would like to have a further conversation with you.

James Gore: Written testimonial is currently unavailable. We will post written testimonial if it becomes available, in the meantime please refer to the archived video for full comments.

Susan Gorin: Written testimonial is currently unavailable. We will post written testimonial if it becomes available, in the meantime please refer to the archived video for full comments.

Pete Parkinson: Please refer to this link for the written testimonial:
http://opr.ca.gov/meetings/wildfire-commission/2019-04-03/docs/20190403-Wildfire_Commission_Testimony_PParkinson.pdf

Item 9: Final Public Comment

Chair Carla Peterman: A couple people have identified that they want to provide public comment so we are going to take those first and then use the remainder of our time for our local representatives. Please keep your comments to under three minutes if possible.

PUBLIC COMMENT 3: Will Abrams.

I really appreciate the work of the Commission. As a member of the community, trying to understand how our family and are community can be protected from the next wildfire, what I see is a lot of great work and a lot of great areas of our governments. Tying all those pieces together in an informed strategy moving forward is so critical because then folks like me can figure out how to plug ourselves into that overarching strategy.

On the insurance front, there is a real opportunity here for collaboration. Part of what we heard is what is going to mitigate risk as a family member to the health and safety of my family, those are going to be the same things that will mitigate the risk for the insurance company. I would encourage the Commission to look for common ground, specifically that are sticks like building codes, but it is also carrots.

There is a great model in Boulder, Colorado, wildfire partners that look to provide incentives. It is not going to be something that is cookie cutter for California, but that combined with things we have done around incentives for energy efficiency. We can look at those models, put them together, and work collaboratively with insurance companies to mitigate their risks and mitigate our risks. Healthy, safe communities and financially viable communities as well.

I am also pardon to the motions before the PUC (California Public Utilities Commission), certainly really critical of the plans the IOUs have put forward. These are primarily financial risk avoidance plans. I think that in order to get them into the framework where they need to be, we need to make sure we are focused on motivating them to get ratepayer reimbursements. This is not an “or” question; this is what we can do to make it an incentivize for them to mitigate the overall fire risks and then get paid out by ratepayers based on the amount of risk mitigation they have done throughout their system. Once we tie those two things together, then they will be able to move forward, make a good return on their investment for the folks that are invested in them; therefore, that win-win scenario where what is good for the IOUs is also good for the community members. I would look to those types of win-win scenarios. I have more details in my proposals and I am happy to go into more detail if you have further questions as you look through those in your deliberations.

PUBLIC COMMENT 4: Kendall Jarvis, Disaster Relief Attorney, Legal Aid of Sonoma County.

I was speaking to Supervisor Gore earlier today about the issues he is going to touch on a high-level; I am touching on a more interconnected, on-the-ground stuff. We are sort of doing it backwards but it will make sense. One of the things I have had the unique opportunity to do in this position and role is really be on the ground and see patterns that survivors face. While I could go on about these things for hours and hours, I know we are on a very brief timeline.

One main thing I want to touch on is the issue of underinsurance. I see that as a two-fold problem. One, fixing it as it stands now. Second, requiring adequate insurance moving forward. The issue of requiring adequate insurance moving forward is complex, but the most simplistic way to do it that has worked in other states and other countries is to provide a level of gap insurance, where you are not providing a whole policy but just providing an addition. So you have your homeowners' insurance policy so you can go to the state or private market to purchase that. When there is a disaster, I can turn to the second product to make up that difference. So you can keep the costs down and not keep all of the pressure on just one insurance policy or the small number of people who can provide it, but you can open it up to a larger market and/or bring it to the state to maintain and oversee the use of that process.

The other issue is fixing the system as it stands now. One major problem is that insurance companies have been able to hide behind their lack of fiduciary duty for a very long time. Because an insurance company doesn't fiduciary duty to the consumer, it is very easy for them to say, "Look, I'm sorry, but you chose your coverage. It's your fault. Too bad. You saw the numbers. There you go," when in reality that is not what happens. The insurance agent chooses the insurance. The individual goes to the insurance agent and says, "Hey, I would like to purchase a policy." What they are asking is to insure their whole home. They are not asking to insure 50% or 75% of it. They are asking to insure 100% of it. And the agent because they are in the business of selling insurance policies says, "Absolutely, we have a great company. We have a great product. We will get you great coverage." So the representation to the individual in that situation is that they ask for full insurance and the agent has their interest and will provide them with full insurance.

This goes on further when they receive the policy after the agent shows them the coverage amount. The policy says: I will provide you with placement cost coverage, extended placement cost coverage, and building code upgrade coverage, also known as ordinance and law coverage. Those coverages, as stated by the policy terms, are designed to get you your house back without accounting for depreciation up to the current codes' standards at the time of reconstruction. What nobody tells the individual – after the agent has represented that they have provided full insurance that the policy has re-solidified that interpretation of their understanding of the process – is that none of this is true. It is all completely false unless your base coverage dwelling is sufficient and adequate to begin with. The consumer did not choose that coverage. They weren't aware of the burden placed of them that is hidden in multiple pages within the policy, which they unfortunately don't read thoroughly enough. So, this needs to change.

The other reason it is a problem is that there are currently no individual enforcement mechanisms. It is nearly impossible to get a private attorney to take on many of these cases because the way that the system is set up currently is that unless you are in a position where the amount in controversy is $500,000 or more, it is not in the best interest of a private attorney to take on that case. They are not going to risk $200,000 in litigation for potential recovery of maybe $90,000 to $100,000. It doesn't make business sense and it is not cost effective. For that reason, using the legal system is not the best way to effect change in this capacity.

Additionally, while you can go to private insurance to file a claim, that is not as helpful at an individual level as it is on the future, big picture level. If I file a complaint with the California Department of Insurance, my insurance company will say come back and say talk to this person, do you agree or disagree? There is nothing that forces the insurance company to do anything. It doesn't go far enough in placing basically a requirement that the insurance company do what they are supposed to do. There are laws and regulations in place that we can use to ensure that these issues are resolved. They don't go far enough, but even as they stand now they are not enforced enough. That needs to change.

PUBLIC COMMENT 5: Thomas C. Ells, RCE.

I am returning from federal disability court in San Rafael where I represent disability clients. It was very difficult to get here today. We just heard about this meeting yesterday and I am thankful for that, but I will get directly to my point. I am a civil engineer. All state, city, and county planning must be under the direct supervision of a civil engineer. So this planning effort must fall within that at some point. Not information gathering, but how that gets translated into a product so that it is state law.

I have a Master of Science in Finance and a Master of Science in Administrative Law and before I was a civil engineer for 40 years, I was a bond investment broker for many years. Investors must be the corporate overseers of their own corporations. That is why they are required to pay when there is error. Are these omissions? Was San Bruno? This isn't just about PG&E. It is not about PG&E per se. Corporations have to be the people that are responsible. Shareholders have to be responsible for their own corporation ns.

It is necessary to take available waters that we have and put it out in the environment in order to protect and prevent fire. You talk about cost recovery – and make no mistake there is a lot of cost recovery – maybe a portion of that has to be put on shareholders. I am a third generation civil engineer. We have involved with insurance companies that were mutually owned, so an insured person had an interest in owning the corporation of mutual insurance company. That was an interaction that was of mutual interest. They do not have the same interests anymore. That separation caused a fundamental disconnect with how either one of those entities, whether that is PG&E or whether it is an insurance company operated for or the shareholder.

PUBLIC COMMENT 6: Julia Donoho, AIA ESQ GC.

In Redding, I mentioned to you that we have a great deal of fraud going on here in our community because contractors are not serving consumers and protecting their needs. This is a CSLB (Contractors State License Board) enforcement issue that needs to be addressed because it is taking a lot of money out of our community and not building homes. We also talked about the subrogation and inverse condemnation issues. Inverse condemnation can backfire and I am very concerned about taking that away. I ask you to keep looking at subrogation as a bar for State Farm and other insurance companies to be subrogated against utilities and then taking the money out of the state to build their skyscrapers in Chicago.

I ask you to follow the profits. I made you a sheet from Verisk Analytics that show that they made $34 billion in profits in the first half of 2018 on these disasters using software technology. I would like to explain to you why it is important, as Kendall said, that people know what they are buying. We need some truth in insurance. I have made a little diagram for you here that I will pass up that shows Verisk's software tool called 360Value that does a zip code calculation where the zip code is the location and the square footage is where the policy is issued. Agents have 10% leeway on that. Then after that, they use the Xactware tool to deflate the value of construction so they are evading real estate evaluation and evading construction costing, and the construction costs are far greater. It is showing a policy issuance from the agent, estimating from the adjuster, and actual cost from the construction. Verisk is making a huge amount of money and they are doing that by using this software tool. They are not working for California. They may work elsewhere, but I just talked to someone else and they said it doesn't work anywhere in the country and we need to examine the insurance technology.

PUBLIC COMMENT 7: Terry McBride.

Thank you so much for having us here. I am a survivor of the Butte Fire three years, 205 days ago. I still live in a camping trailer because PG&E has decided to hide behind the skirts of a bankruptcy court and not be responsible for the damages they have caused and the lives that they have basically ruined in our little town. We lost over 500 homes, over 1,000 buildings, affecting thousands of people.

I would say if you go to the store and rob something, your mom and dad are going to whoop your bottom and you are going to get in trouble. Let's start doing that with PG&E. How about instead of them giving their higher ups bonuses, how about getting work done so things don't burn. How about they say, "We caused your fire," and we are going to settle your claims.

I lost three houses. Two were rentals and one was a nice, little camping trailer, which we gave to folks that had very little money. We kept it nice for them so they could have a nice place to live instead of a tent. I had two other rentals that had outhouses. They burned and I had a loss of 36 acres of trees. The amount that they sell those for is maybe I could build a house, but I can't even get that because they aren't honoring that agreement. The only reason I agreed to that ridiculously low sum, which was an insult, was because they were threatening to go bankrupt. You cannot tell me they didn't know they were going to be bankrupt months before they finally did and they forced us and threatened us into pathetically small sums of money. And then say, "Whoops, sorry. Too bad." I wish you could see people the people up there whose lives have been devastated that walk around with vacant looks because they don't know what to do because even though the amount wasn't enough, they could start rebuilding their lives.

PUBLIC COMMENT 8: Lisa Fraree.

My family and I lost two homes in the Tubbs Fire. I want to thank the Commission for holding this in our community today. I appreciate you coming out. I sat with Mr. Jones a year ago in Sacramento on insurance issues. I wanted to bring up a few points that I haven't heard today. One of them is not only are we geographically being singled out if we want to go back and rebuild our homes, we are being singled out personally. If my husband and I decide that we can't rebuild and we want to move somewhere that is less hazardous than where we lived before, we are seen as a bad risk. That is something I haven't seen or heard so I would like that to be addressed.

Also, I heard two people talk about pre loss and prevention. My husband and I in trying to rebuild, we are trying to look at ways to not only harden our home but use a material that won't burn or is better in an earthquake. We have both issues of course. We hit nothing but road blocks. Unless you are going to rebuild with wood frame, it is more expensive and it is really hard to get the permitting to go through. So I would like to you address that as well, some type of incentives or even help for more information. We are having to find out all the information out ourselves. Obviously in fires, this is going to be more and more common, that is not the best way to go.

> **Chair Carla Peterman:** You talked about being singled out. Do you mean in terms of insurance availability?
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> **Lisa Fraree:** Not availability per se, well yes, actually. There was one insurance company that wouldn't cover us. Our rates would go way up and it isn't our fault a wildfire happened. That really shocked us. We understood that our house geographically where our old house was, but it seemed like if we moved away from our house – we never had a complaint on our insurance. We had the same insurance agent for 26 years and we never had one complaint. But the risk follows us. I thought we did what we were supposed to do.
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> **Commissioner Dave Jones:** Did you move out of the wildland-urban interface?
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> **Lisa Fraree:** Yes. The home that we are in now is out of the wildland-urban interface.
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> **Commissioner Dave Jones:** The one that you tried to insure?

Lisa Fraree: The one that we tried to insure with that one agent was out of the wildland-urban interface.

PUBLIC COMMENT 9: Stuart Funk.

I am going to forgo what you have already heard before, which is complicated to say the least. I would say we are today chasing a fire that has already happened versus stopping a fire from happening. I watched the Atlas Fire start from PG&E equipment. It went 40 knots and killed four of my neighbors. The policies – I will call it the politics – of forest management has really been an issue. The wildlife management of Napa County had a setback. We just passed an ordinance that says you must retain 70% canopy cover or 40% of your brush. Even though there will be some mitigation for fire protection, I can tell you 100 feet around your house isn't enough. We were disallowed to clear brush around our houses or around our property in favor of a snap dragon or a ceanothus bush. There are technologies that PG&E knows about that are available; San Diego (Gas & Electric) uses them that are a lot smarter than what PG&E is installing currently. I am going to hand you a photograph of a PG&E repair job on a telephone pole. That basically is their attitude on proper maintenance.

The FAIR Plan is not the answer. It is too little. It is underinsurance; we are already underinsured. I don't know anyone who is confident that they can buy insurance in the future. What has happened in the past is these insurance companies won't redline these areas once you have your home built in the future. I would say look to forest management first, PG&E at the same time as far as prevention, rather than trying to chase it through a number of other insurance products.

PUBLIC COMMENT 10: Janet Leisen, Wikiup Bridge Way Homeowners.

One of the issues that I would like to address is something that I haven't heard a lot about. I was personally affected by the Tubbs Fire and my family lost three homes. That was enough. We were underinsured. Fortunately, my daughter was adequately insured. But one of the things our community is now facing – we have a neighborhood of about 25 homes – is the private infrastructure that was essential to our neighborhood was either damaged or destroyed by the fire. That additional financial stress is either preventing or may prevent some of my neighbors from rebuilding. It is not just our community but there are a number of communities in Sonoma County that lost bridges that were combustible. Ours cost our community $320,000 to replace, which is a tremendous financial burden for homeowners.

In addition, there were retaining structures that were lost. And during the debris removal, these rural roads that are designed for passenger vehicles were subjected to tremendous loads of debris removal trucks. Our road in particular was paved and it is no longer paved in some sections. We are looking at, as a community, a half a million dollars or more in private infrastructure replacement, none of which is covered through insurance. We received some money from FEMA (the Federal Emergency Management Agency) but FEMA's contention was you had a wooden bridge before the fire; therefore, we will replace it with a wooden bridge.

We are also running into difficulties with government programs that are available, but we don't always fall into the box so we are running into frustrations from that.

PUBLIC COMMENT 11: Nora Sheriff, Counsel, California Large Energy Consumers Association (CLECA).

I represent CLECA. CLECA is an organization of industrial customers, PG&E and SCE, their CCA (community choice aggregation), public utility customers, and direct access customers. Some have on-site renewable energy generation. What they share is the fact that their cost of power here in California is a significant component of their cost manufacturing.

I want to make three points. First, rates in California are already very high – much higher than our neighboring states. In December 2018, the average industrial electric rate was almost 12 cents per kilowatt hour. In Nevada, it is less than 5 cents per kilowatt hour. We recognize, however, that with the wildfires that we have had the rates will go up. But the costs we are talking about are in tens of billions of dollars. The mitigation plans for 2019 alone could reach over $3 billion for industrial utilities. That is going to be an annual recurring cost that is imposed on ratepayers. The cost for the liabilities – as I am sure you are aware – for 2017 and 2018 is over $30 billion dollars. What we do know is that there will be more wildfires. Hopefully the risk of catastrophic wildfires will be mitigated as we harden the system and undertake all these other efforts, but the costs are significant, in the tens of billions of dollars. That brings me to my third point: ratepayers cannot bear these costs alone given this context. We need to look to beyond the utility ratepayers. We need to look to the utility shareholders, insurance companies, premium payers for insurance companies, and look at the profits. Chair Peterman, I really appreciated your question about looking at who is ultimately this risk being transferred to? CLECA's greatest fear right now is that it will all be transferred to the ratepayers and that is untenable. I will supplement with written comments.

PUBLIC COMMENT 12: John Anderson, Director of Forest Policy, Humboldt and Mendocino Redwood Company.

We own 400,000 acres of timberland. I came here today because I thought I wouldn't hear anything about managing fires before they get into residential areas. What better way to cut costs than keep it from getting there? We have many obstacles in California towards doing that. The timberland harvest process to thin out trees is a $40,000 to $50,000 permit so we look to doing exemptions to that are there are some in the state. We do have one right now called the forest fire prevention exemption that allows us to thin out trees without that expensive permit. That was upgraded a little bit in SB 901; however, it is limited to 300 acres. We have a goal in the state of treating 500,000 acres a year, so we are kind of hamstringing ourselves there.

Also, the biomass energy industry needs support as well. We have a lot of sub-commercial material and that is a great use for it. SB 515, running through the system right now, allows those types of industries to get material from other areas besides just tier 1 or tier 2 areas. But yesterday within the committee, what we wanted to do in that bill was allow them to get material from moderate high and very high fire hazard areas; they redlined out the medium and high yesterday. So we are really standing in the way of ourselves here for a lot of this in increasing the pace and scale of forest management in California.

I would ask the Commission to support bills that are pro-forestry. We can keep fire on the ground if we manage it right. Being a past wildland firefighter, that is when you can get up right to the flames and put them out. You have a back way out when you have over dense forest and the flames are up in the treetops and we have houses burning. I will put all this in writing but ask you to support forest management bills that are going through the process.

PUBLIC COMMENT 13: Neil McKeown.

I am also a 2015 Butte Fire survivor. My family and I lost everything. I thought that we were insured for full replacement value. As it turned out, Wells Fargo got their money back on mortgage but there was not enough to rebuild. We also reached a settlement with PG&E in November, a signed agreement. I have a wife and two children and two 140 pound dogs and we have been living in a trailer for a long time. We had signed this agreement with PG&E and they never wrote the check. They also selectively wrote checks to people who had similar signed settlement agreements. They selectively chose who they paid and who they didn't. I proved that. One thing to consider is that the Insurance Institute for Business & Home Safety on their website clearly puts forward their drive and have started a new rates system in which they choose the science that can shape codes. They are using these codes to chase people out of the wildland-urban interface. I personally cleared four acres around my property and yet it still burned. I was cleared by CAL FIRE as having gone above and beyond clearing. The way that insurance institutes are influencing the codes that counties are forced to adopt are placing increased barriers for people to rebuild and further limiting the availability of affordable housing and rebuilding capabilities.

> **Chair Carla Peterman:** We appreciate in particular sharing from the wildfire victims. We recognize that the experiences that you share with us are not unique to you and they represent thousands of others. We thank you for taking the time today.

PUBLIC COMMENT 14: Daniel Settlemyer, Marin Clean Energy (MCE).

I come to you as formerly a lifelong Coffey Park resident, now a volunteer firefighter in Petaluma, and a staff member at Marin Clean Energy. Like many of you here, my family lost our home in the 2017 north bay fires and we are still in the process of rebuilding. Doing so has been incredibly difficult, so in the hopes of helping those who have found themselves in a similar position, I would like to share some information about MCE's Advanced Energy Rebuild Napa program. MCE is a default power provider for Napa County. Many of the customers we serve lost their homes in the 2017 fires. As part of MCE's commitment to our communities, we are offering rebates for supporting homeowners and building energy efficient and sustainable homes. Qualified homeowners are eligible for incentives up to $12,540. This program is offered jointly by the Bay Area Air Quality Management District (BAAQMD), MCE, and BayREN in partnership with Napa County and as an enhancement to PG&E's longstanding California advancement program. If you are interested in learning more, there will be an informational workshop this Saturday, April 6th at 10 AM to 11:30 AM at the Napa Main Library. I am also more than happy to act as a point of contact and provide information handouts to anyone with questions. I encourage anyone to come by and say hello.

Item 10: Meeting Adjourned

Chair Carla Peterman: Thank you all. We appreciate your patience. See you on April 29th. Please evacuate the room as quickly as possible. Meeting adjourned.