

Evan Johnson

From: John Fiske <jfiske@baronbudd.com>
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To: Evan Johnson
Subject: Commissioner Questions--Answers
Attachments: 2019.03.13- Fiske Commission Testimony March 13 Hearing.pdf; 2019.03.15- Legislative Doc #3_v.1.pdf; 2019.03.12- Legislative Doc #2_v.1.pdf; 2019.03.10- Legislative Doc #1_v.2.pdf; 2019.04.03- Wildfire Funding April 3 Testimony_v.2.pdf

Evan,

Thanks to you and the Commissioners for listening today. I'd like to provide some additional information in response to Commission questions. Please pass on this email to the Commissioners, as this also answers the specific questions of Mr. Jones and Mr. Wara.

One concept for a proposed fund can be found in the attached document entitled "Legislative Doc #3," which outlines layers of funding sources at suggested amounts. The first layer requires IOUs to bear the first burden, which is an increased self-retention/deductible. As described by the SCE representative today, the low \$10 million deductible allows SCE to pass on higher insurance premiums to ratepayers. SCE's description of primary insurance coverage as the "self-retention/deductible" for a "fund" is a misnomer, as ratepayers bear the burden of those premiums—thus ratepayers are the ones paying that self-retention/deductible. Increasing the deductible lowers relative premiums and puts IOU shareholder money on the line first, which promotes shareholder pressure on management to implement mitigation measures. This shareholder self-retention/deductible could be \$100 million or \$250 million—but it must be an amount commensurate with actual wildfire liability, unlike \$10 million.

The next layer of primary insurance coverage should be at least \$3 billion, and here's why (Wara Question). A review of utility-caused wildfires since the 2007 San Diego fire may reveal that most individual wildfire liabilities can be managed at or near \$3 to \$4 billion, including the following fires: 2007 SDG&E San Diego fire, 2015 Butte Fire, any one of the individual 2017 North Bay Fires, 2017 Thomas Fire, and 2018 Woolsey Fire. Recently, the Camp Fire and aggregate set of 18 fires in North Bay have skewed public and market perception regarding the statistical prevalence of extremely costly fires above \$3 to \$4 billion. In other words, historical data may reveal that the overwhelming majority of any one utility caused wildfire can be appropriately managed using a \$3 billion policy, rarely requiring fund access. IOUs should have no basis for objection to mandatory insurance minimums since ratepayers pay premiums. The impact to ratepayers can be offset by two factors: (1) increased self-retention/deductibles, and (2) state-supported premiums to protect low-income ratepayers.

Why should the state taxpayers subsidize insurance premiums for low income ratepayers on robust insurance policies? The provision of electricity is a public service/function. The state of California has effectively outsourced that provision largely to IOUs and relieved itself of the burden of providing that public service/function. In doing so, the state has arbitrarily divided its geographic service regions into three large areas serviced by three large for-profit corporations. The division of service areas were not originally designed/divided to spread wildfire risk evenly, which should not unfairly burden low income communities in some parts of the state versus others, especially in a modern, well-traversed statewide economy. Electricity is public service/function; the state has arbitrarily divided itself into three large IOU territories; and, California operates as one statewide "global" economy—thus, the state has an interest in supporting low income ratepayers in all three regions. Said another way, low income ratepayers should not be regressively burdened due to sophisticated, modern energy markets.

The next layer of funding begins "the fund," a combination of state catastrophic bond funds, pooled risk capital from shareholders, and pooled/shared tower insurance. As occurs with any "layer cake," each layer must be exhausted before

reaching the next layer. This is important because shareholder capital must be exhausted before returning to tower insurance, reserved for those truly extreme catastrophic circumstances such as Camp. Insurance at the highest towers should be relatively cheaper than primary coverage. These premiums would be borne by ratepayers, but on a statewide, pooled basis among all three IOUs, more adequately spreading the risk. Low income ratepayers should continue to receive state-backed protection. The total fund amount in the attached example, which can range from \$15 billion to \$21 billion, is based on the estimate of the most devastating fire in state history, the Camp Fire (Wara Question).

(Jones Question) This proposed fund does not contemplate direct payment to victims—nor is this fund intended to insure first party losses, such as occurs in the Florida model or the CEA. Hurricanes and earthquakes are natural disasters. Utility-caused wildfires are man-made disasters, not naturally-caused. This proposed fund is not meant to replace or supplement first party insurance, but rather third party liability. While victims would be involved in providing prima facie/threshold justification for access to the fund, the monies would be available to the potentially-liable IOU to manage and pay claims. Multi-billion dollar corporations are good at hiring defense lawyers who evaluate legal liability, including causation, violations of law, damages, and defenses, to properly manage victims' claims. Most CalFire reports issue within about a year or less, and certainly all that I am aware of issue within two years. These official investigative reports provide guidance to IOUs and victims regarding evidence of causation and ultimate legal liability. In the attached proposal, the fund is not intended to supplant the healthy adversarial process. Rather, the funds are intended to stabilize markets and provide liquidity solutions for IOUs and victims alike.

(Jones Question) Homeowners and renters remain incentivized to purchase property insurance for three reasons: (1) Homeowners must still insure against single-event house fires and other property damage, (2) Homeowners must still insure against non-IOU caused wildfires, such as the Carr fire in Redding, and (3) Even when used for IOU-caused fires, the adversarial process still applies; legal and factual causation, and ultimate legal liability must be proven; and, there is no guarantee of receiving certain funds for certain amounts since they will be distributed through the IOU in the healthy adversarial process, and the funds are intended to cover only those uninsured losses. This proposed fund is not intended to replace first party insurance, but rather support third party liability.

I am always happy to address additional questions, and I was disappointed we did not have enough time to engage in discussion at the hearing (although certainly not the fault of anyone). Please let me know if you have any additional questions or requests for information.

Respectfully,
John Fiske