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360 Grand Avenue, #150
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March 28, 2024

The Honorable Cottie Petrie-Norris
Chair, Assembly Committee on Utilities and Energy
1020 N Street, Room 408A
Sacramento, CA 95814

RE: AB 2054 (Bauer Kahan) Energy: employment gifts and rates. SPONSOR

Dear Chairperson Petrie-Norris,

The Utility Reform Network (TURN) is a consumer advocacy organization that has fought on behalf of California utility customers for almost 50 years. TURN has been an active ratepayer advocate at the California Public Utilities Commission (CPUC) and at the Legislature championing affordable bills and customer protections that will ensure that all Californians have access to safe, clean and reliable energy. On behalf of our members, TURN is proud to sponsor and support AB 2054.

AB 2054 introduces stronger utility spending discipline by requiring utility shareholders to share the risk for utility spending that exceeds the budget forecast approved by the CPUC in a GRC or other cost recovery proceeding. Further, AB 2054 prohibits CPUC Commissioners from accepting gifts from entities regulated by the CPUC and would prohibit a Commissioner from accepting employment from a regulated entity for ten years after leaving the CPUC.

AB 2054 Requires Shareholders to Share the Risk for Utility Mismanagement of its Budget.

In recent years rates for the California Investor-Owned Utilities have skyrocketed. For electric rates, in the last 10 years, SCE rates have increased 89%, PG&E rates 92% and SDG&E 105%.¹ Over 2013 to 2023, SoCalGas rates increased over 100%.² These steep rate increases worsen the financial hardships already facing energy insecure customers.³ As noted in the background report preceding the Assembly Oversight Hearing on Affordability Concerns in the Electric Sector “roughly a quarter of Californians report being ‘unable to pay energy bills.’”⁴

There are two main categories of cost recovery proceedings at the CPUC: General Rate Cases (GRC) or other proceedings that set rates based on forecasts of future utility expenditures, and “reasonableness reviews” that can add to rates amounts based on costs that the utility has already spent. In certain instances, the GRC will approve a forecast for

¹ California Office of Public Advocates Q3 2023 Electric Rates Report, p.4, available at: <https://www.publicadvocates.cpuc.ca.gov/press-room/reports-and-analyses/q3-2023-electric-rates-report>

² See TURN-02 in Southern California Gas Company 2024 General Rate Case, A.22-05-015.

³ <https://www.kqed.org/news/11970332/rising-utility-costs-compound-californias-housing-crisis>

⁴ Background Report, p. 2.

a category of costs but allow the utility to track additional spending in that category in a memorandum account (MA) or balancing account (BA). The utility will then come back and request rate recovery of the spending beyond the forecast approved in the GRC. In recent years the energy utilities have requested recovery of literally billions of additional costs from ratepayers for such above-authorized costs recorded in MAs and BAs for categories where the CPUC had already approved a forecast:

PG&E:

- 2021 WMCE Request (A.21-09-008): PG&E's application included \$211 mm for costs recorded in the WMBA (\$157.60 mm above the authorized amount) and \$1.249 B for vegetation management (\$701.3 mm above the authorized amount).
- 2022 WMCE Request (A.22-12-009): PG&E's application included \$161.1 mm for costs recorded in the WMBA (approximately \$100 mm above the authorized amount) and \$1.538 B for vegetation management (approximately \$935 mm above the authorized amount).
- 2023 WMCE Request (A.23-12-001): PG&E's application included \$138 mm for costs recorded in the WMBA (approximately \$84 mm above the authorized amount) and \$1.629 B for vegetation management (approximately \$937 mm above the authorized amount).
- 2023 WSGC Request (A.23-06-008) for 2022 costs: PG&E's application included \$726 mm expense and \$1.534 B in capital in wildfire mitigation in the WRMMA and FRMMA accounts and \$120 mm in expense and \$118 mm of capital expenditures for Gas Safety and Electric Modernization recorded in at least nine different memorandum accounts.

SCE:

- 2018-2020 Costs in SCE GRC Track 3 (A.19-08-013): SCE's application included \$476 mm in O&M in addition to forecasts adopted in two proceedings (a GRC and a Grid Safety and Resiliency Proceeding) tracked in WMPMA, FRMMA, FHPMA and GSRPMA.
- 2022 WMVM (A.23-10-001): SCE's application included \$113 mm in O&M (approximately \$90 mm over authorized amount) and \$136 mm in Capital (approximately \$136 mm over the authorized amount) tracked in WMPMA and \$245 mm in the VMBA for costs in excess of the 115% "reasonableness threshold."

Sempra:

- Transmission Integrity Management Program Balancing Account (TIMPBA): TY 2019 GRC (D.19-09-051) set the forecast at \$539 mm for 2018-2023. By September 30, 2022, the utility already tracked \$743 mm in the account, \$204 mm over the authorized amount with over a year left in the five year period.
- SDG&E Track 2 Request for 2019-2022 Wildfire Costs (A.22-05-015/016): includes \$284 mm in O&M and \$1.188 B in capital in excess of the 2019 GRC authorized amounts tracked in the WMPA.

AB 2054 addresses those scenarios where the CPUC has previously established the amounts that would be "just and reasonable" to include in rates based on its having weighed the evidence in support of that forecast for such programs. Under traditional

ratemaking practices, the utility would arguably be responsible for the full amount of any spending above the authorized amount, at least until the next forecast is established (usually in a general rate case proceeding). Under AB 2054, to the extent the costs are not the subject of additional disallowances, the shareholders would be responsible for 50% of the spending. Further, AB 2054 would cease the recent practice of establishing a “reasonableness threshold” that permits rate recovery of a portion of costs above the previously approved forecast without any meaningful review of the costs to establish that they meet the “just and reasonable” standard.

A return to forecast ratemaking for costs of wildfire mitigation programs is appropriate given the significant experience the energy utilities have gained in recent years from their implementation of such programs. The undue reliance on memorandum accounts and balancing accounts may have made sense in the early days of such efforts, and before California saw the spending levels the utilities recorded when permitted to go forward without effective cost control incentives. The utilities now have the experience required to stick to their forecast and a MA or BA is no longer needed to address claimed difficulty in developing a reasonably accurate forecast for wildfire mitigation.

When the CPUC approves a utility forecast it is balancing the ability of the ratepayers to bear additional costs in rates with the budget needed to operate a safe and reliable system. Allowing the utilities to track and request additional costs when the CPUC has already adopted a forecast budget reduces the ability of the CPUC to manage rate increases. By requiring the utility to bear 50% of any spending beyond the forecast between incentivizes the utility to manage its operations within its approved forecast and limit the additional requests for ratepayer costs to only what is strictly necessary.

Similarly, requiring a rate application (rather than an informal advice letter) for recovery of above-authorized spending ensures the CPUC gives appropriate review to such requests. Today, the above-authorized spending recorded in MAs and BAs are subject to a range of review, only some of which result in a Commission decision determining that the increased amounts were reasonable. Some accounts are subject only to staff review, while others effectively get no review and are just placed in rates in an omnibus end-of-year advice letter.

AB 2054 also better ensures that the CPUC have before it a range of options, by requiring cost-benefit information not only about the utility’s proposed program, but also up to three alternatives where available. If the CPUC is going to achieve success in reining in the current pattern of ever-increasing rates, it needs to consider not only a utility’s proposed approach, but also the options the utility considered but chose not to put forward. Cost-effectiveness is an important measure of comparing the reasonableness of options, and AB 2054 would provide the CPUC with better information to use that measure.

The current affordability challenge is not tied solely to wildfire-related spending, of course. Nor is the upward pressure going away any time soon; for example, California ratepayers are potentially facing tens of billions of additional utility expenditures for required distribution and transmission grid upgrades and new generation.⁵ Not only is greater spending discipline needed now to ensure that there is room in rates to absorb these additional costs, but strong regulatory mechanisms are required to ensure that utilities don’t overspend future ratepayer dollars.

⁵ Background Report, p. 2.

AB 2054 Ensures CPUC Commissioners Are Independent of Influence from Regulated Entities

Current rules require a cooling off period of two years before a person leaving a regulated entity can be act as a CPUC Commissioner. This bill would also add a cooling off period of ten years after a CPUC Commissioner can accept employment with an entity regulated by the CPUC. AB 2054 would place limitations on the ability of CPUC Commissioners to receive gifts from utilities.

At a time of rising rates, there is public distrust of the CPUC and whether it is acting fully independently of the utilities it regulates. Creating a cooling off period after a Commissioner of the CPUC has left the agency will signal greater independence of the CPUC to ratepayers and increase public trust in CPUC regulation. Ratepayers deserve security in the knowledge that their regulators are acting in their best interest.

TURN is proud to sponsor and support AB 2054. For more information about TURN's position, please contact the Hernandez Strategy Group at Ignacio@HernandezStrategy.com.

Sincerely,

Katy Morsony

Katy Morsony
Legislative and Assistant Managing Attorney
The Utility Reform Network

Cc: Members, Assembly Utilities and Energy Committee
Assembly Member Bauer Kahan

