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October 24, 2017

President Michael Picker
Commissioner Martha Guzman Aceves
Commissioner Carla J. Peterman
Commissioner Liane M. Randolph
Commissioner Clifford Rechtschaffen
Executive Director Timothy Sullivan
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Request for Emergency Consumer Protections to Support Victims of the October 2017 Wildfires

Dear President Picker, Commissioners, and Executive Director Sullivan:

Beginning on October 8, 2017, several major wildfires spread rapidly across eight California counties, leaving a path of terror and destruction in their wake. In light of these fires, Governor Brown issued a series of Emergency Proclamations, extending to Butte, Lake, Mendocino, Nevada, Orange, Solano, Sonoma, and Yuba Counties.¹ As one of the largest state agencies in California, TURN believes this Commission has an opportunity to make a significant difference in the lives of thousands of fire victims.

As the Governor's Emergency Proclamations explain, these fires have damaged critical infrastructure, threatened, damaged, and destroyed thousands of homes and other structures, and necessitated the widespread evacuation of more than 100,000 residents.² A number of areas are still under mandatory evacuation order.³ Preliminary reports from the California State Department of Insurance indicate that the October 2017 Wildfires have completely destroyed nearly 7,000 homes and other buildings and caused at least \$1 billion in damage to insured

¹ See <https://www.gov.ca.gov/news.php?id=19994> ("Governor Brown Declares State of Emergency in Napa, Sonoma, and Yuba Counties Due to Fires"); <https://www.gov.ca.gov/news.php?id=19997> ("Governor Brown Declares State of Emergency in Butte, Lake, Mendocino, Nevada and Orange Counties Due to Fires"); <https://www.gov.ca.gov/news.php?id=20004> ("Governor Brown Declares State of Emergency in Solano Country Due to Atlas Fire").

² More than 100,000 residents of Sonoma County alone were displaced by fires this month. See "Shelters Remain Safe Havens for Santa Rosans Fleeing Fires," *Santa Rosa Press Democrat*, October 19, 2017.

³ See <http://sonomacounty.ca.gov/EOC-and-PIO/Fires-October-2017/Confirmed-Evacuations/> (providing daily updates on mandatory and advisory evacuation orders in Sonoma County).

properties. These numbers do not include uninsured property and are expected to rise dramatically as crews continue assessing scorched areas.⁴

Following Governor Brown's Emergency Proclamations, the Federal Emergency Management Agency (FEMA) issued a Major Disaster Declaration for the State of California due to wildfires and designated Butte, Lake, Mendocino, Nevada, Orange, Solano, Sonoma, and Yuba Counties as adversely affected by this major disaster.⁵ As of October 15, FEMA had designed all of these counties for Category A and B Public Assistance and all but Solano County for Individual Assistance.⁶

The residents of these counties directly affected by the October 2017 Wildfires have suffered tremendous losses, and their efforts to recover and rebuild their lives will be time- and resource intensive. Some have lost their homes and will need to relocate permanently. Others will need to temporarily relocate until they can restore habitability to their homes. Still others may have been able to remain in the area but have lost electric, telecommunications, and water utility service, and the delivery of other essential services has been interrupted or impaired. Further compounding these harms, some Californians are unemployed as a direct result of the wildfires.⁷

The utilities regulated by the Commission provide a life sustaining, essential service and should conduct business in a manner that supports the recovery of families and individuals who have been impacted by the October 2017 Wildfires. TURN urges the Commission to exercise its authority to assist these residents by adopting emergency consumer protections that will remove barriers to accessing essential utility services as they cope with the impacts of the disaster.

In the following sections, TURN identifies the Emergency Consumer Protections that are appropriate to support wildfire victims, recommends eligibility requirements for these protections and addresses their duration, and suggests a vehicle for considering utility costs that may be associated with the rules we propose.

1. Emergency Consumer Protections

TURN recommends that the Commission adopt the following Emergency Consumer Protections for residential customers of the energy, water, and telecommunications utilities, as applicable,

⁴ "California Fires Cause \$1 Billing in Damages, Burn 7,000 Buildings," *Santa Rosa Press Democrat*, October 19, 2017 (providing data from California Insurance Commissioner Dave Jones based on claims filed with the eight largest insurance companies in the affected areas).

⁵ FEMA Disaster Federal Register Notices: Disaster 4344, Initial Notice, Oct. 10, 2017, available at <https://www.fema.gov/disaster/4344/notices>.

⁶ FEMA Disaster Federal Register Notices: Disaster 4344, Amendment Nos. 1, 2, 3, and 4, available at <https://www.fema.gov/disaster/4344/notices>.

⁷ See <https://www.gov.ca.gov/news.php?id=20030> ("California Secures Unemployment Assistance Benefits for Workers Impacted by Wildfires").

who have been directly affected by the October 2017 Wildfires.⁸ Affected utilities should be required to notify their customers in disaster designated areas, as well as those seeking to establish service, of the availability of these Emergency Consumer Protections.

A. Waiver of Deposits to Establish Service and Expediting Move-Ins and Move-Outs

A major hurdle for evacuees trying to transition from shelters, other temporary housing arrangements, and uninhabitable homes to more permanent housing can be credit deposits that utilities may require as a condition of providing service. For example, the amount of these deposits for energy utility customers can be up to twice the average monthly bill as estimated by the utility. Some evacuees who might otherwise have had the means to pay a deposit have also lost their jobs or weeks of wages due to the destruction. Others are seniors or families who simply do not have the financial means to pay a service deposit on top of dealing with the costs of displacement.

TURN recommends that the Commission direct the utilities to waive deposit requirements for wildfire victims seeking to establish service. This waiver should last for one year, since customers may need to move several times before establishing a permanent residence.

Similarly, TURN recommends that the Commission direct utilities to use best efforts to expedite move-ins and move-outs to support Californians returning to their homes or establishing service in new locations.

B. Suspension of Disconnection for Non-Payment and Associated Fees

Having access to essential utility services is critical to being able to regain stability. It is reasonable to anticipate that some customers directly affected by the wildfire disaster will fall behind on utility payments as they bear the costs of rebuilding their homes or transitioning to permanent or long term substitute housing.

TURN recommends that the Commission provide wildfire victims with protection from service disconnection for nonpayment, and associated fees, through at least April 30, 2018. While we do not intend to suggest that evacuees will be permanently housed by then – far from it – we believe that customers should receive this heightened level of protection during the initial period of recovery from displacement. TURN would support a longer suspension of disconnections, as well, should the Commission find that appropriate.

⁸ TURN proposes that the Emergency Consumer Protections apply to those customers of telecommunications utilities directly affected by these fires who receive tariffed services, including but not limited to basic voice service and LifeLine services.

C. Suspension of Deposits to Re-Establish Credit and Late Fees

The utilities may require some customers who pay bills late or are disconnected for non-payment to “re-establish” credit by paying a deposit, which can be up to twice the average monthly bill as estimated by the utility.⁹ Some may also assess late fees and return check charges, depending on the utility. These policies create additional financial hurdles for customers who are already struggling to manage bills and rebuild their lives.

TURN recommends that the Commission direct the utilities to waive deposit and late fee requirements for wildfire victims who pay late or have been disconnected for non-payment, as well as return check charges. This waiver should last for one year.

Additionally, TURN recommends that the Commission direct the utilities not to report late payments by residential customers, who are eligible for these protections, to credit reporting agencies or to other such services whose use can hinder the customers’ access to goods and services, to the extent the utility would otherwise report late payment practices.

D. Payment Plan Requirements

The Commission has recognized for many years that payment plans are an important tool for preserving access to utility service for customers struggling to keep up with bills. TURN recommends that the Commission require the utilities to offer customers affected by the wildfire disaster who have prior arrearages, or who indicate an inability to pay current bills, a payment plan of longer duration than the utility’s internal policies might otherwise suggest or allow.

Specifically, we propose that customers who have prior arrearages and have lost their homes or been displaced, and are seeking to establish service in a new residence, be offered a payment plan with an initial payment of no greater than 20% of the amount due, and with equal installments for the remainder of not less than twelve billing cycles. For customers who currently have service but are struggling to keep up, we propose a payment plan with an initial payment of no greater than 20% of the amount due, and with equal installments for the remainder of not less than eight billing cycles.

This consumer protection would not preclude a customer who is offered a payment plan with these terms from paying off an arrearage more quickly.

E. Accounting for Reduced Consumption in Estimation of Bills and Ceasing to Bill Customers Whose Homes Are Not Able to Receive Utility Services

Utilities will need to estimate bills for some customers, where metered usage is not available due to damage to the utility’s facilities or the customer’s premises from the October 2017 Wildfires.

⁹ Currently, the major jurisdictional electric and gas utilities do not require low-income customers to pay a re-establishment of credit deposit for late payment.

In such cases, TURN recommends that the Commission direct the utilities to use best efforts to account for reduced consumption in estimating bills. Such adjustments to the utility's normal methods of estimating bills should account for the customer's experience during the wildfires. For instance, for a customer who evacuated but whose home continued to have utility service, there should be no estimated usage attributed to the days when the unit was unoccupied.

Related, the Commission should direct the utilities to use their best efforts, without delaying restoration of service, to identify premises that are not capable of receiving utility services and discontinue billing these premises without assessing a disconnection charge. Any monthly access charges or minimum charges assessed by the utilities should be prorated for these customers, so that no charges are due for the time period after the customer's home was rendered unserviceable by fire.

2. Eligibility for Relief

TURN recommends that the Emergency Consumer Protections apply to any person adversely affected by the October 2017 Wildfires. For purposes of these protections, eligibility should be limited to people who reside in a county declared by the Governor to be a disaster county and who demonstrate that they have been affected by, or evacuated as a result of, wildfire. We suggest that the utilities establish eligibility based on (1) evidence of residency in the affected area and (2) documentation of the person's status as a claimant of disaster assistance benefits offered by FEMA, the American Red Cross, other recognized charitable organizations, or a state or local jurisdiction or agency; evidence of wildfire-related destruction of a person's residence, such as proof of application for insurance coverage; or current or past residence in a designated emergency shelter due to the October 2017 Wildfires, or (3) documentation of eligibility for Federal Disaster Unemployment Assistance (DUA) for workers and self-employed individuals who lost their jobs or had their work hours substantially reduced as a result of the wildfires, including undocumented workers who meet all eligibility for DUA except for citizenship status.¹⁰

TURN further recommends that the Emergency Consumer Protections apply to any person adversely affected by the wildfire disaster, as documented above, irrespective of income. People with fewer resources, such as low-income households and those without insurance, typically take longer to get back on their feet.¹¹ However, the October 2017 Wildfires will significantly impact and change the economic status of many victims, as some have lost wages or lost jobs, and many will take on substantial debt to relocate or rebuild. All affected residents need post-catastrophe assistance.

¹⁰ See California Employment Development Department News Release 17-37, "Disaster Unemployment Assistance benefits now available for those affected by California Wildfires." October 17, 2017.

¹¹ More than 100,000 residents of Sonoma County alone were displaced by fires this month. See "Shelters Remain Safe Havens for Santa Rosans Fleeing Fires," Santa Rosa Press Democrat, October 19, 2017.

These eligibility parameters will provide certainty for utility consumers working to recover their homes, their jobs, and their lives, and provide assurance that all customers are treated equally.

3. Duration of Relief

No one can be sure when people will recover from the devastation of the October 2017 Wildfires, but it will take years. Residential customers, some of whom have lost everything, including their homes and jobs, cannot reasonably be expected to get their lives back in order in a matter of weeks or months. The Emergency Consumer Protections we propose are necessary to support directly affected households as they rebuild their lives. For this reason, TURN recommends that these protections extend for one year from the time of adoption, with the exception of the suspension of disconnections for non-payment, as explained above. The Commission can consider the need for a time extension before the rules expire.

4. Utility Cost Recovery

Lest there be any question, TURN wants to make it abundantly clear that the purpose of the Emergency Consumer Protections we propose here is to assist utility customers directly impacted by the October 2017 Wildfires. The purpose is in no way intended to be punitive to the utilities serving such customers.¹² As such, and because TURN recognizes that the policies recommended herein could potentially cause the utilities to incur incremental costs, we propose that the Commission address utility cost recovery in its order adopting Emergency Consumer Protections.

Specifically, we recommend that the Commission authorize any utility with a Catastrophic Event Memorandum Account (CEMA) to record any incremental direct costs associated with these Emergency Consumer Protections to its CEMA. In Resolution E-3238, the Commission authorized each public utility to establish a CEMA to record costs of (1) restoring utility services to customers; (2) repairing, replacing, or restoring damaged utility facilities; and (3) complying with governmental agency orders in connection with events declared disasters by competent state or federal authorities.¹³ Any direct costs associated with implementing the Emergency Consumer Protections proposed herein, if adopted by the Commission, would be appropriate for inclusion in CEMA because they would fall into the third cost category, if not also the first. Using CEMA would then permit the utility to seek to recover such costs in rates, along with any other costs related the October 2017 Wildfires recorded to CEMA, according to the process

¹² TURN recognizes that the Commission may conclude that punitive action is appropriate, but any such conclusion would follow an in-depth investigation by the Commission if utility involvement is suspected. The Commission's website has a page devoted to the October 2017 Wildfires which describes the Commission's actions to date in response to the wildfires in Northern California counties. *See* <http://cpuc.ca.gov/general.aspx?id=6442454971>.

¹³ Resolution E-3238, issued July 24, 1991 (extending this authorization to "each public utility as defined under Section 216 of the Public Utilities Code, except common carriers and toll bridge operators"). *See also* Cal. Pub. Util. Code § 454.9 (which essentially codified the requirements of Resolution E-3238).

established by the Commission in Resolution E-3238 and California Public Utilities Code Section 454.9.¹⁴

Finally, TURN notes that Resolution E-3239 requires any utility which has started booking costs in its CEMA following a declared disaster to send a letter informing the Commission's Executive Director of such action within 30 days after the catastrophic event. That letter must provide "an estimate of the extraordinary costs to be incurred," among other things.¹⁵ Because the Commission may act on TURN's request after the 30-day period has run, the Commission should instruct affected utilities to update their CEMA letters, as necessary, following a Commission order regarding Emergency Consumer Protections.

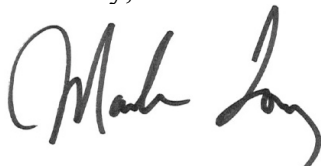
5. Conclusion

The Commission has an opportunity to play an important role in assisting Californians who have been directly impacted by the October 2017 Wildfires in rebuilding their lives. Allowing utilities to disconnect service and charge fees and security deposits to customers who have lost their homes and possibly also their jobs due the wildfire disaster does not serve the public interest. Rather, the public interest is served by giving displaced Californians the time they need to find a place to live, get back to their jobs, and receive assistance and insurance proceeds to help them get back on their feet, without the added burden of losing – or being at risk of losing -- essential utility services. TURN accordingly urges the Commission to adopt the Emergency Consumer Protections discussed above. These protections will help to ensure that access to utility service is not a barrier to recovery for wildfire victims.

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TURN appreciates your attention to this important matter. Given the urgency of protecting wildfire victims, we look forward to your prompt response by October 26.

Sincerely,



Mark W. Toney, Ph. D.
Executive Director

¹⁴ See Cal. Pub. Util. Code § 454.9(b); Resolution E-3238, pp. 2-3. As Resolution E-3238 provides, "Before authorizing recovery from customers of any costs, the Commission will examine how they relate to the overall costs currently authorized for these types of repairs. The costs recorded in the account will not be recoverable in rates without a request by the affected utility, a showing of their reasonableness, and approval by the Commission."

¹⁵ Resolution E-3238, p. 3.