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Exhibit No.:	Liberty-09
Witnesses:	E. Schwarzrock

(U 933-E)

Mountain View Fire Cost Recovery Application

Before the California Public Utilities Commission

Liberty-09: Policy Rebuttal

Tahoe Vista, California

January 23, 2026

Liberty-09: Policy Rebuttal

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I.

Executive Summary

Two parties submitted prepared testimony in response to Liberty's Application and testimony in this proceeding: the Public Advocates Office ("Cal Advocates") and Small Business Utility Advocates ("SBUA") (collectively, "Intervenors"). Through this rebuttal testimony, Liberty identifies key flaws in Intervenors' testimony and demonstrates how Intervenors' arguments conflict with the applicable prudence standard under Section 451.1,[1] including because they are colored by a hindsight review of the record.

Cal Advocates heavily criticizes various aspects of Liberty's wildfire mitigation measures and its response to events on its system on November 17, 2020, the day the Mountain View Fire ignited. Cal Advocates goes so far as to assert—without basis and contrary to record evidence in this proceeding—that Liberty "did not implement" system hardening or operational protocols "prior to the Mountain View Fire."[2] In fact, Liberty was actively executing on mitigation measures across these and other areas at the time of the Mountain View Fire, including directly on the Topaz 1261 Circuit.

Unlike the large investor-owned public utilities ("IOUs") in California, Liberty had never experienced a large wildfire associated with its utility infrastructure prior to the 2020 Mountain View Fire. Nevertheless, in the preceding years, Liberty took prudent steps to mitigate the potential for wildfire risk in its service area, with guidance from the Commission and other stakeholders. At the time of the fire, Liberty had an approved Wildfire Mitigation Plan ("WMP") and was diligently executing that plan to prudently manage and mitigate wildfire risk across its service area. This included investments to harden its system, expand situational awareness, collaborate on forest resiliency and fuel reduction efforts, and implement additional operational mitigations, such as a Public Safety Power Shutoff (PSPS) protocol. Liberty's investments in this regard were substantial and robust: Total spending under Liberty's 2020 WMP was higher than the amounts spent by the large California IOUs on a per overhead line mile and per number of customers basis. Liberty was actively hardening the Topaz 1261 Circuit in 2020 and had quickly pivoted to incorporate covered conductor into the project (when it emerged as a new and evolving wildfire mitigation measure). In this proceeding, Cal Advocates argues that Liberty should have undertaken this work sooner because of the circuit's reliability history. But in

[1] All statutory references are to the Public Utilities Code unless otherwise noted.

[2] CA-07 at 10.

2019, Cal Advocates argued the opposite, *criticizing* Liberty for prioritizing the Topaz 1261 Circuit based on reliability history and weather conditions and questioning whether "Liberty's approach to replacing bare conductor prioritizes the highest risk areas."[3]

Furthermore, Cal Advocates now second guesses Liberty's response to the events on its system on November 17, 2020, highlighting the outage and faults that morning, questioning Liberty's decision to have its system protection in "normal" mode, and criticizing the PSPS protocol approved as part of Liberty's WMP. None of these arguments withstands scrutiny.

As Liberty's opening testimony demonstrated, the local fire season was deemed over as of early November 2020 following the region's first rain/snowfall and forecasted winter storm events. No Red Flag Warning or Fire Weather Watch issued on November 17, 2020. In fact, that very morning, the local National Weather Service ("NWS") office confirmed the absence of fire weather and noted the strong winds and precipitation in the forecast. Despite this contemporaneous evidence, Cal Advocates nevertheless argues that the 1261 R2 Recloser should have been in "fire" or "non-reclose" mode. It further attempts to criticize Liberty's operational decisions that were informed by the judgment of its field personnel—judgment based on the actual conditions observed in the field on the Topaz 1261 Circuit on November 17, 2020. This is classic hindsight review and has no place under the statutory prudence standard that applies to this proceeding.[4] Liberty field personnel were actively working on the Topaz 1261 Circuit on November 17, 2020 as part of the system hardening project, and they promptly responded to the outage that morning. Specifically, Liberty field personnel identified the temporary hot arm structures supporting the segment where the reconductoring work was being performed. In light of the windy conditions in the area, they took immediate action to remediate potential excess slack resulting from the temporary hot arms.

Cal Advocates also criticizes Liberty's PSPS protocol and second guesses the threshold de-energization criteria in place on November 17, 2020. Cal Advocates' testimony ignores that Liberty's

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[3] R.18-10-007, *Order Instituting Rulemaking to Implement Electric Utility Wildfire Mitigation Plans Pursuant to Senate Bill 901 (2018)*, Public Advocates Office Comments on the Wildfire Mitigation Plans at 13, available at https://energysafety.ca.gov/wp-content/uploads/docs/misc/docket/272342917.pdf.

[4] *See* Pub. Util. Code § 451.1(b) (Costs are reasonable if the utility's conduct "was consistent with actions that a reasonable utility would have undertaken in good faith under similar circumstances, *at the relevant point in time*, and based on the information available to the electrical corporation *at the relevant point in time*") (emphasis added).

PSPS protocol and de-energization criteria were set forth in its 2020 WMP and approved by the Commission. In 2019 Liberty had engaged a specialized consultant with substantial expertise in fire science and risk modeling to design its PSPS protocol, which set forth three required criteria for Liberty to implement a PSPS de-energization on the Topaz 1261 Circuit. It cannot be disputed that the threshold criterion—an Energy Release Component ("ERC") exceeding the 92nd percentile—was never satisfied, and therefore Liberty followed its approved PSPS protocol by not initiating a PSPS event on November 17, 2020. Crediting Cal Advocates' PSPS arguments here would require that the Commission countermand its own approval of Liberty's 2020 WMP.

At most, Cal Advocates' testimony addressing Liberty's wildfire mitigation and operational response identifies alternative decisions that may also have been reasonable under the circumstances. But that is wholly irrelevant given the statutory standard explicitly recognizes that prudence "encompasses a spectrum of possible practices, methods, or acts consistent with utility system needs, the interest of the ratepayers, and the requirements of governmental agencies of competent jurisdiction."[5] Cal Advocates does nothing to undermine Liberty's detailed and robust showing that it was a prudent operator of its system at the time of the Mountain View Fire and that its "conduct" leading up to and on the day of the fire clearly fell within that spectrum of reasonableness.[6]

Section 451.1 also requires a causal connection between any imprudence and the costs sought to be recovered.[7] Cal Advocates' testimony fails to establish any such causal nexus between its various criticisms of Liberty's conduct and the costs Liberty requests in this Application. In short, Intervenors fail to establish that any policy, program, or practice was imprudent and that any such imprudence had a clear causal nexus to the ignition and the costs at issue.

Relatedly, Intervenors do not rebut Liberty's detailed testimony and analysis demonstrating that external factors beyond its control drove the progression of the Mountain View Fire and the damage it caused. Section 451.1 recognizes that external factors may exacerbate the damage caused by a wildfire

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[5] Pub. Util. Code § 451.1(b).

[6] *Id.*

[7] *Id.* ("Costs and expenses arising from a covered wildfire are just and reasonable if the conduct of the electrical corporation *related to the ignition* was" reasonable).

and that the utility should not bear the full cost of all such damage.[8] Here, the effects of climate change and increasingly strong winds shortly after ignition propelled the Mountain View Fire to spread out of control and magnified the costs resulting from the fire. Based on claims data and fire progression modeling, Liberty estimated in opening testimony that approximately $82.8 million in settlement payments could have been avoided had winds been just 15 mph slower in the hours after ignition. In other words, at least $82.8 million in costs—more than the approximately $77.4 million requested in this Application—are attributable to factors entirely outside Liberty's control. Liberty's external factors testimony is uncontroverted and therefore provides an alternative basis—irrespective of Liberty's showing that it was a prudent operator—for the Commission to authorize full recovery of the requested costs.

Finally, recovery of the WEMA costs requested in this Application is consistent with cost-of-service ratemaking, is in the public interest, and will ultimately benefit customers. Intervenors do not meaningfully challenge that showing. The costs at issue are particularly significant for Liberty, given its small size. Authorizing cost recovery will support Liberty's access to capital to fund critical safety, wildfire mitigation, reliability and clean energy investments, which is in the interest of customers and the State. Liberty has also proposed to recover the WEMA costs over a three-year period to reasonably balance cost recovery and customer affordability.

II.

Intervenors Fail to Undermine Liberty's Showing That It Was a Prudent Operator of Its System at the Time of the Mountain View Fire

No party disputes that the Mountain View Fire is a "covered wildfire" subject to the AB 1054 framework. Review of this Application is therefore governed by Public Utilities Code section 451.1. Section 451.1(b) provides that the Commission "shall allow cost recovery if the costs and expenses are just and reasonable." The statutory standard focuses on reasonableness *at the time of the utility's conduct*, and forbids reliance on hindsight: "Costs and expenses arising from a covered wildfire are just and reasonable if the conduct of the electrical corporation related to the ignition was consistent with actions that a reasonable utility would have undertaken in good faith under similar circumstances, *at the relevant point in time*, and *based on the information available to the electrical corporation at the*

[8] *Id.* ("Costs and expenses in the application may be allocated for cost recovery in full or in part taking into account factors both within and beyond the utility's control that may have exacerbated the costs and expenses, including humidity, temperature, and winds.").

relevant point in time."[9] Indeed, the Commission's longstanding view has been that "the reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made, not how the decision holds up in light of future developments."[10] The statutory standard also emphasizes that reasonable conduct does not require conformity to a single perfect ideal: "Reasonable conduct is not limited to the optimum practice, method, or act to the exclusion of others, but rather encompasses a spectrum of possible practices, methods, or acts consistent with utility system needs, the interest of the ratepayers, and the requirements of governmental agencies of competent jurisdiction."[11]

Liberty put forward a detailed and robust showing that it was a prudent operator of its system at the time of the Mountain View Fire. Intervenor testimony criticizes Liberty's showing in various respects. Those critiques are inconsistent with the statutory prudence standard and therefore do not undermine Liberty's showing.

A. Liberty Reasonably Managed Wildfire Risk in Its Service Area

Cal Advocates presents multiple chapters of testimony criticizing Liberty's wildfire mitigation measures and repackaging historical data on circuit reliability, outages, weather, fires and other topics that, in Cal Advocates' view, should have put Liberty on notice of wildfire risk and prompted further action. These arguments ignore the significant wildfire mitigations that Liberty had already implemented under its 2019 WMP and was continuing to implement under its 2020 WMP. These arguments also reflect a review of the record colored by hindsight.

Liberty is a small investor-owned utility, serving approximately 50,000 customers across seven counties in the Lake Tahoe region of northern California. Liberty primarily serves rural communities and mountain towns, areas with relatively low customer densities. In the years preceding the Mountain View Fire, Liberty recognized the risk of wildfires in its service area and took steps to mitigate that risk—even though Liberty had never experienced a large wildfire attributed to electrical infrastructure in its service area. For instance, Liberty developed its first Fire Prevention Plan in 2012, at a time when

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[9] *Id.* (emphasis added).

[10] D.05-08-037 at 10 ("The Commission has affirmed this standard of review in numerous decisions over many years").

[11] Pub. Util. Code § 451.1(b).

only 26 percent of its service area was designated as either "very high" or "extreme" fire risk.[12] Liberty built upon and significantly expanded its wildfire mitigation efforts in response to the evolving wildfire risk landscape across the State, particularly in Northern California, as demonstrated by the 2017 and 2018 wildfire seasons. Indeed, when the Commission adopted its final High Fire Threat District ("HFTD") Map effective January 2018,[13] the percentage of Liberty's service area designed as high fire risk (Tier 2 or Tier 3 HFTD) jumped to approximately 63 percent, with almost all of Liberty's electrical equipment and infrastructure (approximately 94 percent) located within those HFTD Tier 2 and 3 areas.

Through its first WMP in 2019 and continuing with its 2020 WMP, Liberty developed and implemented new programs and policies to respond to these changes in wildfire risk and to mitigate the risk of wildfires posed by its equipment, calibrated to Liberty's service area. In the years preceding the Mountain View Fire, Liberty worked expeditiously to expand and strengthen these efforts notwithstanding its relatively small size and customer base. In fact, Liberty dedicated substantial funds to implementing its 2020 WMP. This included additional investments in hardening its system, deploying Cal Fire-exempt equipment, and expanding situational awareness, from installing weather stations across its service area and developing fire risk modeling capabilities to increasing deployment of monitoring sensors and upgrading devices across the system. Liberty also implemented operational wildfire mitigation measures, including adopting a PSPS protocol as a mitigation of last resort, expanding its emergency response capabilities, and implementing "fire mode" or "non-reclose mode" settings on its system protection.

1. Cal Advocates' Critiques of Liberty's Wildfire Mitigations Contradict Its Own Prior Positions and Rely on Hindsight

Cal Advocates argues that Liberty's comprehensive wildfire mitigation efforts were insufficient and faults Liberty for not implementing additional mitigations earlier on the Topaz 1261 Circuit.[14] Cal Advocates goes so far as to list "[t]ypical best practices" such as "[s]ystem hardening," "[e]nhanced vegetation management," "[o]perational protocols," and a "[p]olicy for reassessment of circuit risk" and

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[12] *See* D.12-01-032 at 171–172 (adopting interim fire-threat map for Northern California developed jointly by the University of California at Berkeley and Reax Engineering Inc. ("Reax Map")).

[13] D.17-12-024 at 145–146.

[14] *See, e.g.*, CA-07 at 9 (Liberty "did not take timely or proactive steps to address the elevated risks associated with the Topaz 1261 Circuit.").

assert that Liberty "did not implement any of the[se] items … prior to the Mountain View Fire."[15] Cal Advocates' assertions in this regard are belied by the record. They ignore the myriad measures Liberty had implemented and was actively implementing at the time of the Mountain View Fire, including directly on the Topaz 1261 Circuit, all of which Liberty described in detail in its opening testimony and in numerous data request responses.[16] These efforts are also detailed in Liberty's WMP updates and in the report from the Office of Energy Infrastructure Safety ("OEIS") concluding that Liberty substantially complied with its 2020 WMP.

System Hardening. At the time of the Mountain View Fire, the Topaz 1261 Rebuild Project was well underway, as exemplified by reconductoring work that Liberty and its contractor were performing

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[15] *Id.* at 10.

[16] *See, e.g.*, Liberty-01 at 7 (general summary of Liberty's various wildfire mitigation measures); Liberty-03E at 10–13 (detailed summary of Liberty's various wildfire mitigation measures), 17–18 (system hardening), 27–29 (enhanced vegetation management), 34–36 (situational awareness tools); 36–40 (PSPS protocol); 41 (disabling of automatic reclosing); CA-05-SA, App'x B, Attachment 11, Liberty's response and amended response to CalAdvocates-LIB-A2506017-001, Questions 9, 13 (describing the Topaz 1261 Rebuild Project and Liberty's various wildfire mitigation initiatives); Liberty-10, App'x A, Liberty's amended response to CalAdvocates-LIB-A2506017-005, Question 1 (providing records of LiDAR scan); Liberty-10, App'x A, Liberty's amended response to CalAdvocates-LIB-A2506017-006, Question 3 (providing records regarding Liberty's weather stations); Liberty-10, App'x A, Liberty's responses and amended responses to CalAdvocates-LIB-A2506017-008, Questions 1–2, 5–8 (providing details regarding PSPS, fuel moisture sampling, weather stations, and FPI); CA-05-SA, App'x B, Attachment 12, Liberty's responses and amended responses to CalAdvocates-LIB-A2506017-011, Questions 1–8 (providing details regarding PSPS protocol); CA-04-SA, App'x B, Attachment 1, Liberty's responses to CalAdvocates-LIB-A2506017-014, Questions 1–4 (providing details regarding PSPS, weather stations, and fuel moisture sampling); CA-04-SA, App'x B, Attachment 7, Liberty's responses and amended responses to CalAdvocates-LIB-A2506017-017, Questions 1–3, 5 (providing details regarding PSPS and the fire weather dashboard); CA-08, App'x B, Attachment 3, Liberty's responses to CalAdvocates-LIB-A2506017-018, Questions 4–5 (providing records related to the Topaz 1261 Rebuild Project); Liberty-10, App'x A, Liberty's responses and amended responses to CalAdvocates-LIB-A2506017-029, Questions 1–8, 11–12 (providing details regarding PSPS, Fire Prevention Plan, and situational awareness tools); CA-07-SA, App'x B, Attachments 3, Liberty's responses to CalAdvocates-LIB-A2506017-031, Question 6 (providing details regarding system hardening initiatives); CA-05-SA, App'x B, Attachment 8, Liberty's supplemental response to CalAdvocates-LIB-A2506017-032, Question 1 (providing redacted versions of PSPS documents); CA-04-SA, App'x B, Attachment 2, Liberty's responses to CalAdvocates-LIB-A2506017-035, Questions 1–17 (providing details regarding PSPS, FPI, and weather stations); CA-05-SA, App'x B, Attachment 17, Liberty's responses to CalAdvocates-LIB-A2506017-037, Questions 1–10 (providing details regarding PSPS and fire weather dashboard).

only a mile away from the origin area on the morning of the fire.[17] As Liberty described in detail in *Liberty-03*, this system hardening project was specifically targeted toward reducing risk on the Topaz 1261 Circuit given its history of outages and the harsh weather conditions in the area. Cal Advocates now argues that Liberty should have started this work earlier based on the circuit's history as "among the worst circuits for reliability" and that by not doing so "Liberty did not appropriately prioritize the circuit for hardening."[18]

Cal Advocates' position in this regard has reversed since 2019. When commenting on Liberty's 2019 WMP, Cal Advocates criticized Liberty's prioritization of the Topaz 1261 Circuit and the Tahoe City 7300 Circuit for system hardening. Specifically, Cal Advocates questioned whether "Liberty's approach to replacing bare conductor prioritizes the highest risk areas" because, in 2019 Cal Advocates' view, "Liberty ha[d] not clearly identified the wildfire risk reduction, instead focusing on other factors, including 'worst performing circuit' and 'below freezing temperatures.'"[19] Today in this proceeding, Cal Advocates points to those very same factors it criticized 2019 in order to argue that Liberty actually should have prioritized the Topaz 1261 Circuit even more and implemented system hardening even earlier. Cal Advocates' change in position from 2019 and 2025 indicates a view of the record colored by hindsight.

Moreover, to the extent Cal Advocates suggests that Liberty should or could have installed covered conductor sooner, that assertion is entirely unsupported. In 2019, Cal Advocates argued that Southern California Edison ("SCE")'s industry-leading covered conductor program should be only a limited term pilot through 2020 because the technology "ha[d] not yet been quantitatively demonstrated

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[17] Liberty also undertook other major system hardening initiatives under its 2019 and 2020 WMPs, including the construction of microgrids and the replacement of expulsion fuses.

[18] CA-07 at 23–25.

[19] R.18-10-007, *Order Instituting Rulemaking to Implement Electric Utility Wildfire Mitigation Plans Pursuant to Senate Bill 901 (2018)*, Public Advocates Office Comments on the Wildfire Mitigation Plans at 13, available at https://energysafety.ca.gov/wp-content/uploads/docs/misc/docket/272342917.pdf .

as effective in reducing wildfire risk in California."[20] Cal Advocates' contention in this proceeding that by 2020, covered conductor "was already known as a solution capable of dramatically reducing the likelihood of conductor contact,"[21] is contradicted by its own prior positions. Indeed, if Liberty had reconductored the Topaz 1261 Circuit earlier than it did—as Cal Advocates now recommends—Liberty would have used bare conductor, not covered conductor. Liberty's original design for its Topaz Line Rebuild Project involved upgrading from existing #4 ACSR conductor to larger #2 ACSR bare conductor—not installing covered conductor.[22] Liberty then quickly pivoted and re-scoped phases of the project to include covered conductor as a new and emerging mitigation technology, in connection with its 2019 WMP.[23] Liberty's quick implementation of covered conductor as part of the Topaz Line Rebuild Project reflected a proactive and leading-edge approach to system hardening aimed specifically at reducing wildfire risks. Thus, Cal Advocates' criticisms are without merit and, in any event, any causal nexus to the Mountain View Fire is entirely speculative.

Enhanced Vegetation Management. As Liberty described in detail in *Liberty-03*, enhancing its vegetation management programs was a focus for Liberty in the years leading up to 2020. In 2017, Liberty engaged an experienced vegetation management specialist to conduct a programmatic review,

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[20] Cal Advocates-01, A.18-09-002 (Apr. 23, 2019) at 2–3. Even as of 2021–2022, California utilities were continuing to test the effectiveness of covered conductor. Cal Advocates also has recommended *less* funding when commenting on covered conductor funding requests—on many occasions, including as recently as 2024. *See, e.g.*, Ex. PAO-09, A.19-08-013 (Apr. 10, 2020) at 14–15 (recommending $237.3 million reduction from SCE's forecast of wildfire-management related capital expenditures for 2021, 90% of which were budgeted for WCCP); Ex. CA-02, A.19-08-013 (Feb. 15, 2023) at 10–11 (recommending 300 miles less in mileage and $211.9 million less in funding for SCE's Wildfire Covered Conductor Program for 2024); Ex. CA-11, A.23-05-010 (Feb. 29, 2024) at 23–27 (recommending less funding than SCE requested for its WCCP in every year between 2023 –2028, including $235.7 million less in 2023 and $197.9 million less in 2024.)

[21] CA-07 at 23–24.

[22] Liberty-03E at 17.

[23] *See* Liberty Utilities (CalPeco Electric), LLC, *Wildfire Mitigation Plan* (Feb. 4, 2019) at 21 (CA-07-SA, App'x B, Attachment 7 at CA-07-0470), available at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M263/K645/263645319.PDF (explaining that the Topaz Line Rebuild and other projects "were originally designed to use bare conductor replacements but based on the wildfire risk assessment, the projects will be re-designed to use covered conductors."); *see also* Liberty-03E at 17 ("In 2020, Liberty completed a total of 3.17 miles of covered conductor replacement…."); CA-07 at 24 ("By 2020, [Liberty] had installed 3.17 miles of covered conductor and was in the middle of Phase Five [of the Topaz Line Rebuild Project] at the time of the Mountain View Fire.").

with the goal of shortening its vegetation inspection and maintenance cycle. Liberty dedicated substantially increased resources to shortening its inspection cycle, and by 2020, it had reduced its vegetation inspection cycles from over 7 years to 3 years. Starting in 2014, Liberty conducted tree mortality patrols to respond to long-term drought conditions and the bark beetle crisis in the state that contributed to increased tree mortality within Liberty's service territory. In 2020 alone, Liberty removed over 2,000 trees as a result of its off-cycle tree mortality patrols. In 2020, Liberty also began to implement a Forest Resiliency Corridor on a 60 kV transmission line, which expanded vegetation clearance to distances greater than regulatory clearance requirements. As Cal Advocates acknowledges, Liberty also conducted a LiDAR scan of certain overhead facilities for vegetation clearance in 2020.[24] This scan, which covered approximately half of Liberty's service area, showed that the Subject Span was clear of vegetation only a few weeks before the fire.

Operational Protocols. Though Cal Advocates argues that Liberty "did not implement" operational protocols "prior to the Mountain View Fire"[25] and even doubled down on this assertion when asked for clarification,[26] that is incorrect. Liberty had various operational protocols in place to mitigate the risk of wildfire prior to the Mountain View Fire, including on the Topaz 1261 Circuit. As described in *Liberty-03*, Liberty put reclosers in "fire mode" or "non-reclose mode" during times of elevated wildfire risk. In 2020, Liberty used fire mode or non-reclose mode settings for its protection system and had those settings enabled on the Topaz 1261 Circuit reclosers specifically for a ***continuous period of 165 days***.[27] Liberty had upgraded both reclosers on the Topaz 1261 Circuit in recent years, with the nearest upstream recloser (the 1261 R2 Recloser) upgraded in March 2020. The upgrade of the

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[24] Liberty-10, App'x A, Cal Advocates' response to Liberty-CalAdvocates-DR-003, Question 11.

[25] CA-07 at 10.

[26] When asked for clarification, Cal Advocates responded that "Liberty has not provided verification that the Topaz 1261 circuit was actually operated under weather triggered protocols in the years immediately preceding the fire (2017 – 2020)." Liberty-10, App'x A, Cal Advocates' response to Liberty-CalAdvocates-DR-003, Question 11. To support this assertion, Cal Advocates cited a Liberty data request response indicating that Liberty's first proactive de-energization under its PSPS protocol occurred in 2024. To the extent Cal Advocates takes the position that an actual PSPS de-energization event is the only way to "provide[] verification" that operational protocols were implemented, that is incorrect. As described in Liberty's testimony, data responses, and 2020 WMP, Liberty operated its system under an approved PSPS protocol. That is true regardless of whether any proactive de-energizations are actually implemented.

[27] *See* Liberty-03E at 41.

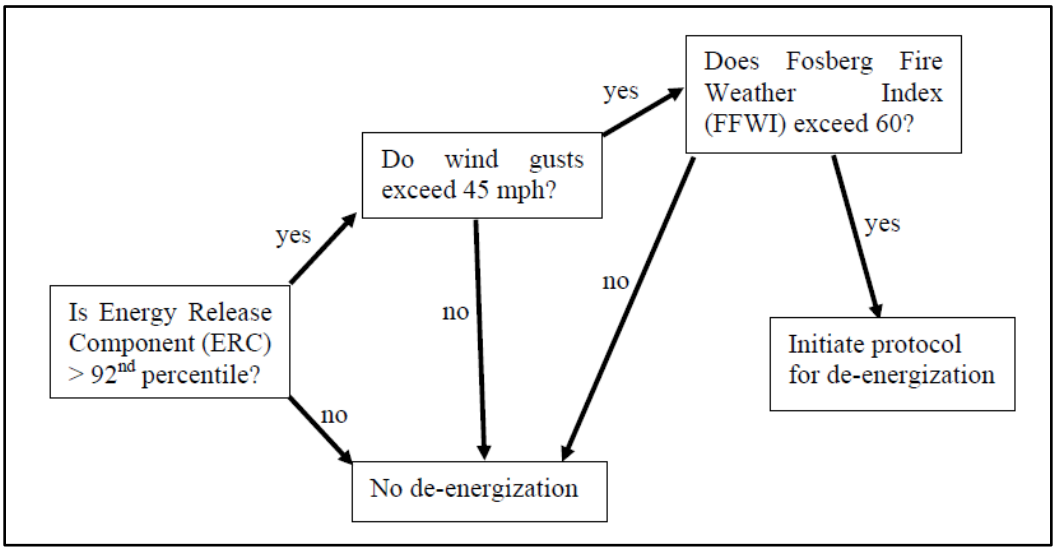
1261 R2 Recloser supported increased system automation and remote operation through Liberty's SCADA system, including to enable the "fire mode" setting. As discussed further below and in *Liberty-10*, Liberty had reasonably returned the devices to "normal" mode on November 10, 2020, after the region received its first snowfall and the regional NWS office reported that fire season was over.

At the time of the Mountain View Fire, Liberty also was operating its system, including the Topaz 1261 Circuit, under a PSPS protocol approved by the Commission in Liberty's 2020 WMP. As a small utility, Liberty recognized the need to bring in outside expertise in this area. Liberty engaged a specialized consultant to assist with the development and design of its PSPS protocol as well as developing a Fire Potential Index ("FPI") that formed the basis for Liberty's Fire Prevention Plan, which prescribed restrictions and requirements for field work during days with elevated fire threat. Liberty's consultant had substantial expertise in fire science and risk modeling, including before the Commission as part of the fire-threat map rulemaking.[28] Liberty's consultant conducted a detailed study, prepared a lengthy whitepaper on PSPS, and helped Liberty design a reasonable, risk-informed PSPS program specific to its service area. Liberty described its PSPS protocol in its 2020 WMP, which was approved by the Commission.

Liberty's approved PSPS protocol used three criteria: (a) Energy Release Component ("ERC"); (b) wind gusts; and (c) Fosberg Fire Weather Index ("FFWI"). For the Topaz 1261 Circuit, Liberty's de-energization guidelines set thresholds for these components as follows: (a) ERC exceeding the 92nd percentile; (b) wind gusts exceeding 45 mph; and (c) FFWI exceeding 60.

[28] *See* R.15-05-006, *Order Instituting Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety Regulations*.

Figure 1: De-Energization Decision Tree for Topaz 1261 Circuit



Liberty applied that protocol accurately and consistently prior to the ignition. At no point in the days leading up to November 17 did forecasts show that conditions were likely to approach or exceed de-energization criteria for all three components. Indeed, ERC forecasts were just above the 60th percentile, well below the 92nd percentile threshold under Liberty's PSPS protocol.[29] Cal Advocates does not dispute that Liberty followed its PSPS protocol in effect at the time of the Mountain View Fire as approved in its 2020 WMP. That should end the inquiry. Yet Cal Advocates goes further, critiquing Liberty' PSPS thresholds as "insufficient"[30] based on its after-the-fact review of recorded weather station data as conditions evolved on November 17. Cal Advocates raised no such objection to Liberty's PSPS thresholds in its comments on Liberty's 2020 WMP.[31] The Commission should reject Cal Advocates' invitation to do precisely what Section 451.1 prohibits—evaluating prudence based entirely on hindsight.

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[29] ERC primarily measures fuel moisture content and fuel load on a percentile basis relative to seasonal trends. An ERC reading in the 92nd percentile or higher means that the risk of a wildfire spreading out of control is substantial. Fire occurrence and size are strongly correlated with ERC. *See* Liberty-03E at 37 n.46.

[30] CA-05-A at 18.

[31] Comments of the Public Advocates Office on the 2020 Wildfire Mitigation Plans (Apr. 7, 2020) at 36–39, available at https://energysafety.ca.gov/wp-content/uploads/docs/misc/wmp/public-comments/public-advocates-office-comments-2020-wmp.pdf .

Cal Advocates points to the fact that SCE implemented a PSPS de-energization in southern Mono County on November 17, 2020, but SCE's decision does not call Liberty's showing into question.[32] The statutory reasonableness standard is not one-size-fits-all and specifically "encompasses a spectrum of possible practices, methods, or acts."[33] SCE's implementation of its own PSPS protocol does not alter the fact that Liberty properly followed its PSPS protocol on November 17, 2020, and the contrary course of action now suggested by Cal Advocates would have been inconsistent with Liberty's approved WMP. Indeed, NV Energy, the utility that owns the upstream portion of the Topaz 1261 Circuit in Nevada, also did not de-energize this or other circuits in the Antelope Valley area based on forecasts or recorded conditions on November 17, 2020.

Crediting Cal Advocates' arguments here also would run contrary to the Commission's own approval of Liberty's 2020 WMP and the included PSPS protocol.[34] As economist Dr. Debra Aron has explained in testimony on behalf of SCE in prior cost recovery proceedings, "regulatory consistency" should be a central objective in resolving wildfire cost recovery matters.[35] "According to the economics literature, social welfare is maximized" when the Commission, after approving a particular course of action based on its "assessment of the tradeoffs and risks before it," "act[s] consistently with that determination in future proceedings."[36] A PSPS protocol represents a balance among risks and tradeoffs. As the Commission has explained: "While PSPS events may reduce the risk of utility-associated wildfires, PSPS events can leave communities and essential facilities without power, which brings its own risks and hardships, especially for vulnerable communities and individuals."[37] The Commission's decision approving Liberty's 2020 WMP, with the included PSPS protocol, represents a judgment that the protocol reasonably balances the risks and tradeoffs of PSPS design. Were the

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[32] CA-05-A at 1.

[33] Pub. Util. Code § 451.1(b).

[34] *See* Resolution WSD-007 (June 19, 2020).

[35] Ex. SCE-01, Vol. 02, A.23-08-013 at 9.

[36] *Id.* at 11 ("[I]n aiming to maximize social welfare, the Commission must make tradeoffs and prioritize risks between expenditures on numerous utility activities that entail risks to life and property and recognize that risks of wildfires, like other risks, can be reduced but not eliminated despite prudent efforts by the utility").

[37] *See, e.g.*, https://www.cpuc.ca.gov/psps/.

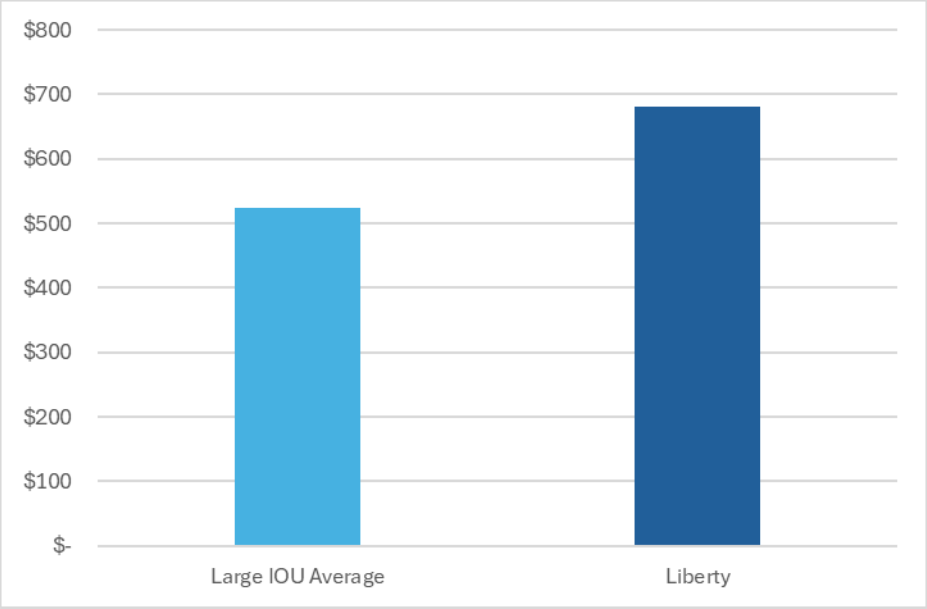
Commission to accept Cal Advocates' post-hoc criticisms of Liberty's operational protocols, that would threaten regulatory consistency and undermine social welfare.

2. Liberty's Significant Wildfire Mitigation Efforts Are Borne Out by Objective Data

Though Cal Advocates argues that Liberty was not adequately implementing and accelerating its implementation of wildfire mitigation measures, that suggestion is belied by the objective data. Liberty's extensive wildfire mitigation efforts at the time of the Mountain View Fire are described above and in *Liberty-03*. Beyond those descriptions, the data also demonstrate that Liberty's investments in these areas were quite substantial when comparing to other California utilities and accounting for both Liberty's relative size (total overhead line miles) and its number of customers.

Though a smaller utility with approximately 50,000 customers and primarily serving areas with relatively low customer densities, Liberty was making substantial investments to mitigate wildfire risk across its service area. For example, when normalizing for number of customers, Liberty's investments under its 2020 WMP on a per customer basis were higher than the large California IOUs.[38]

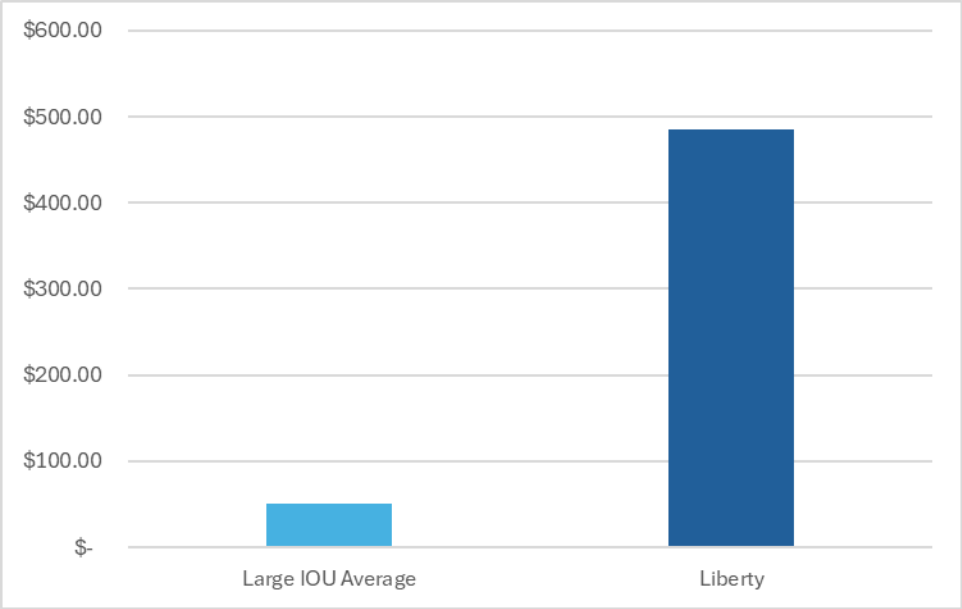
Figure 2: 2020 WMP Spending Per Customer



[38] Figure 2 presents 2020 WMP capital and operating expenditures from the 2023 Q3 WMP quarterly data reports and customer count data from the 2022 Q3 WMP quarterly data reports submitted by Liberty and the three large California IOUs (Pacific Gas and Electric Company ("PG&E"), SCE, and San Diego Gas & Electric Company ("SDG&E")) to OEIS.

Similarly, when normalizing for both number of customers and total overhead line miles located in a HFTD, Liberty's investments under its 2020 WMP likewise were higher than the large California IOU average.[39]

Figure 3: 2020 WMP Spending Per 1,000 Overhead HFTD Line Miles Per 1,000 Customers



The objective data contradict Cal Advocates' arguments that Liberty was not appropriately prioritizing wildfire risk mitigation and that Liberty was unreasonable for not undertaking additional such investments prior to the Mountain View Fire.[40]

B. Cal Advocates' Contentions Based On After-The-Fact-Review Do Not Undermine Liberty's Showing That It Reasonably Operated Its System on November 17, 2020

Liberty put forward a detailed showing in *Liberty-02* and *Liberty-03* that it prudently operated its system on November 17, 2020. Liberty field personnel were actively working on the Topaz 1261 Circuit that day, and Liberty's operational decisions were informed by their judgment and experience based on field conditions on the circuit as well as Liberty's other situational awareness tools, as

[39] Figure 3 presents 2020 WMP capital and operating expenditures from the 2023 Q3 WMP quarterly data reports and the total overhead line miles in HFTD (Tier 2 and Tier 3) and customer count data from the 2022 Q3 WMP quarterly data reports submitted by Liberty and the three large California IOUs (PG&E, SCE and SDG&E) to OEIS.

[40] *See also* CA-04 at 3 (conceding that "Liberty's weather station penetration was comparable or better than peer utilities").

described further in *Liberty-03* and *Liberty-10*. Indeed, in response to an earlier outage that occurred at 9:48 a.m., Liberty field personnel quickly responded and patrolled the Topaz 1261 Circuit downstream of the 1261 R2 Recloser to the end of the line, including the Subject Span where the Mountain View Fire later ignited. This patrol confirmed that it was safe to re-energize the line and restore power to Liberty customers, which occurred at approximately 10:41 a.m.

In its testimony, Cal Advocates second-guesses Liberty's operational decisions on the day of the fire based on a lengthy, after-the-fact-review of conditions recorded by various weather stations on November 17, 2020.[41] According to Cal Advocates, this review shows that recorded conditions actually exceeded NWS Red Flag Warning criteria on November 17, 2020. Cal Advocates therefore criticizes Liberty for not having performed this comparison in real time and made operational decisions on that basis.[42] In making this argument, Cal Advocates relies on the fact that—as explained in *Liberty-04*—recorded conditions on November 17, 2020 ultimately were worse than predicted, with higher-than-forecast winds particularly in the afternoon following the ignition that propelled the fire's rapid progression in the critical early hours.

This ignores the information that was reasonably available to Liberty on November 17, 2020, which under Section 451.1 must be the focus, in favor of Cal Advocates' own review performed in 2025, with hindsight bias because the Mountain View Fire ultimately ignited. In fact, all indicators were that Liberty should be prepared for strong winds and the onset of a winter storm—not fire weather—and that was confirmed by Liberty personnel in the field that day.

As described in *Liberty-01* and *Liberty-03*, the region just had received significant snowfall around November 8, 2020. This prompted the local NWS office to analyze the data and determine that the 2020 fire season in the area had concluded. Liberty therefore turned off "fire mode" or "non-reclose mode" settings on its system protection on the Topaz 1261 Circuit on November 10, returning the devices to "normal" mode for impending winter storms. Information available to Liberty prior to ignition of the Mountain View Fire continued to indicate that the fire season was over and other weather considerations predominated. Forecasts from the local NWS office in the preceding days and on November 17, 2020, indicated strong winds as well as the potential for snow and possible flooding. The

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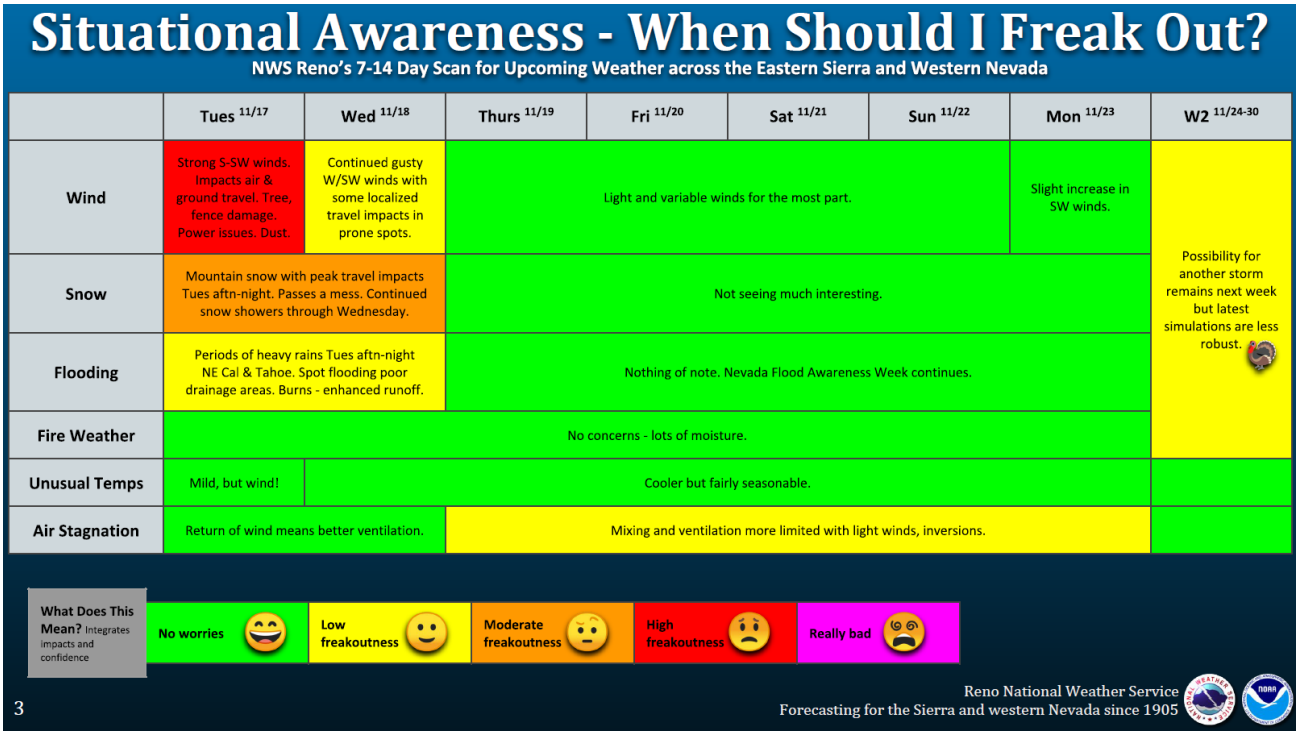
[41] *See* CA-04.

[42] *Id.* at 5–13.

"Fire Weather" forecast the morning of November 17, 2020, definitively communicated there was ***no risk of fire weather***, stating: "[N]o concerns – lots of moisture."

Figure 4: NWS Reno Situational Awareness Forecast for Eastern Sierra and Western Nevada, November 17, 2020



Cal Advocates may now disagree with those reports based on its after-the-fact review and the fact that the Mountain View Fire ultimately ignited. However, that is not a permissible basis to criticize Liberty's operational decisions and reasonable reliance on these NWS forecasts and reports in operating its system. The undisputed fact is that at no point in time—not in the preceding days and not on November 17, even as conditions evolved that day—did the local NWS office issue a Red Flag Warning or Fire Weather Watch[43] for November 17, 2020. NWS Reno could have issued a Red Flag Warning at any time if it believed that contemporaneous conditions posed a fire risk; between 2010–2020, that

[43] The NWS Reno office issued a Fire Weather Watch when there is "the potential for development of a Red Flag event in the 18-96 hour time frame (at least 50% confidence)." California Fire Weather Annual Operating Plan 2021 at 14, available at https://gacc.nifc.gov/oscc/cwcg/docs/2021/2021%20CA%20Fire%20Weather%20AOP%20(Final).pdf.

office issued such warnings on less than 12 hours' notice 42 times, including four instances when the Red Flag Warning period began immediately upon issuance.

What is more, Cal Advocates relies on a faulty premise to assert that "weather stations show Red Flag Warning conditions occurred prior to the time of the ignition."[44] Red Flag Warning criteria require that forecasts exceed thresholds for both wind gust and relative humidity for three hours or more.[45] Even under Cal Advocates' own analysis, the closest weather station to where the Mountain View Fire ignited (LIB26) would not have "show[n that] Red Flag Warning conditions occurred"[46] until 1:40 p.m.—***nearly two hours after*** the Mountain View Fire ignited.

For the same reason, Cal Advocates' hindsight review of Liberty's system protection and response to events on its system on November 17 likewise does not withstand scrutiny. Cal Advocates concedes that Liberty was correct to return its system protection on the Topaz 1261 Circuit to "normal" mode on November 10, 2020.[47] Despite this concession, Cal Advocates criticizes Liberty for the 1261 R2 Recloser not being in "fire mode" at the time the Mountain View Fire ignited. That argument is rebutted by the NWS forecasts leading up to and on November 17, particularly given the significant customer impacts that can occur from outages during heavy winter storms.

Even on its own terms, Cal Advocates' argument fails. According to Cal Advocates, the point at which Liberty should have enabled "fire mode" was following a transient fault that occurred at 10:53 a.m.[48] Because it self-cleared and did not cause the relay to operate, Liberty received no notice of the 10:53 a.m. transient fault when it occurred—a point Cal Advocates does not dispute. In fact, as Liberty confirmed to Cal Advocates in a data request response, Liberty became aware of the 10:53 a.m. fault only ***after*** the ignition of the Mountain View Fire, once it reviewed electrical records that were downloaded from the 1261 R2 Recloser on November 18, 2020. Thus, it is not clear what Cal Advocates believes Liberty could or should have done differently "based on the information available

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[44] CA-04 at 6.

[45] *See id.* at 8, tbl. 1 (identifying the three conditions under the Red Flag Warning criteria—wind gusts, relative humidity, and critical fuel moisture—and indicating that *only* the fuel moisture condition is "for 3 hours or greater").

[46] *Id.* at 6.

[47] *See* Liberty-10, App'x A, Cal Advocates' response to Liberty-CalAdvocates-DR-003, Question 9 ("No, Cal Advocates does not contend that Liberty should not have taken the 1261 R2 Recloser out of fire mode on November 10, 2020").

[48] CA-06 at 1.

to" Liberty "at the relevant point in time."[49] It is axiomatic that Liberty could not have responded on November 17, 2020, based on information that only became available days later.

C. SBUA's Arguments Are Readily Contradicted by the Record

SBUA's testimony is brief and focuses on several arguments that are based on meritless technical theories and incorrect assumptions.

1. SBUA's Fatigue Theory Is Unsupported by the Physical Evidence

SBUA focuses much of its testimony on Liberty's operations on the day of the fire and post-fire investigation into the cause of ignition. In so doing, SBUA advances a theory—drawn from selective reliance on metallurgical testimony from plaintiff's designated expert in civil litigation—that the field phase conductor exhibited fatigue-related degradation that contributed to its separation.[50] The physical evidence does not support that theory, and it is not advanced in this proceeding by a witness with any specialized metallurgical training.[51] The record instead demonstrates that the field phase conductor separated as a result of phase-to-phase contact and arcing, a conclusion that SBUA and Cal Advocates themselves acknowledge elsewhere.[52] There is no metallurgical evidence that fatigue caused, or materially contributed to, the ignition risk on November 17, 2020.[53]

As explained in *Liberty*-02, SBUA's theory requires speculation that long-term vibration-induced fatigue weakened the conductor at its midpoint.[54] That speculation is not supported by the metallurgical evidence. Dr. Gary J. Fowler—whose testimony SBUA endorses in other respects—concluded that the fracture surfaces of the failed field phase conductor exhibited no striations or beachmarks—hallmark indicators of fatigue failure.[55] Instead, the fracture surfaces

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[49] Pub. Util. Code § 451.1(b).

[50] SBUA-01 at 11–12.

[51] *Id.* at 21.

[52] *See Id.* at 8; CA-02 at 17.

[53] SBUA's contention that Liberty "avoids evidence of fatigue," SBUA-01 at 11, is unsupported by the record in light of Dr. Gary J. Fowler's testimony on this issue in civil litigation and this proceeding.

[54] *See* Liberty-02, Part II(B)(2).

[55] *Id.* at 9. Dr. Fowler holds a doctorate in Metallurgy and Metals Processing from UCLA and conducted his doctoral research on fracture mechanisms, including fatigue. Liberty-08 at 30.

exhibited melting consistent with electrical arcing, indicating that conductor separation occurred due to phase-to-phase contact rather than progressive mechanical degradation.[56] . .

2. SBUA Unfairly Impugns Liberty's Credibility

SBUA wrongly implies that the statements in Liberty's Application that SED had investigated the Mountain View Fire and had not issued any investigation report or alleged violations were not consistent with Commission Rule 1.1.[57] In fact, Liberty's statements were true at the time and remain true today. Liberty had no knowledge, or even any indication, that the SED investigation that began in 2020 was still open at the time it submitted its Application.

Liberty filed its Application approximately four and a half years after the Mountain View Fire. At the time of filing, Liberty had not received communication from SED about the fire for nearly *three years*. Under these circumstances, Liberty had no reason to think SED's investigation into the Mountain View Fire remained active.[58] Liberty's subsequent receipt of an SED data request in September 2025 was disclosed to Cal Advocates in a data request response on October 16, 2025, and was made part of the record by briefing from Cal Advocates and Liberty in November 2025 in connection with Cal Advocates' Motion to Deny. As of the date of this testimony (more than five years after the fire), Liberty still has no indication as to whether, and if so, when, any SED report may be forthcoming.

3. SBUA Misinterprets the Outcomes of Prior Wildfire Cost Recovery Proceedings

SBUA argues that because Liberty has recovered almost 60% of costs resulting from the Mountain View Fire through insurance, Liberty's shareholders would be in a similar position as SCE's shareholders in relation to the Thomas Fire—*even absent any cost recovery in this proceeding*.[59] That is false. SBUA mischaracterizes the resolution of the Thomas Fire cost recovery proceeding as involving a Commission-approved settlement that authorized SCE to

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[56] Liberty-02 at 8. Even testimony cited by SBUA confirms the failure mode involved electrical arcing, not fatigue-driven fracture. *See* SBUA-01 at 8.

[57] *Id.* at 7, 18–19.

[58] Based on SED's published information regarding its wildfire investigations, among the 27 wildfires identified as occurring during the 2019–2021 time period (the period bracketing the Mountain View Fire), the Mountain View Fire is the only wildfire as to which SED has not issued an investigation report. For the 26 wildfires with SED reports, the average time between the date of the fire and SED report was 1.3 years, with a range from 3 months to 3.0 years.

[59] *See* SBUA-01 at 7, 16– 17.

recover 60% of costs resulting from that fire.[60] But in that proceeding, SCE "sought recovery of approximately $2.407 billion in WEMA costs recorded through July 2023 (*net of insurance recoveries*)" and other CEMA costs.[61] The settlement reached by the parties and approved by the Commission authorized SCE to recover 60% of the WEMA balance, as of July 31, 2024, *net of insurance*. Thus, SCE's *total* recovery (setting aside costs tracked in CEMA), including the $1 billion in insurance proceeds, was $2.627 billion of a total of $3.712 billion, or roughly 71%. Likewise, in the Woolsey Fire cost recovery proceeding, the amount SCE sought in WEMA costs was net of insurance recoveries.[62] If Liberty were not authorized to recover the $77.4 million of WEMA costs that it seeks to recover in this proceeding, its shareholders would face a 0% recovery *net of insurance*—which is not comparable to prior resolutions.

SBUA's contention that complete denial of cost recovery would be "consistent with or exceed[ing] other recent utility outcomes" also ignores the significance of the costs at issue in this proceeding relative to Liberty's overall size.[63] Liberty seeks recovery of $77.4 million in WEMA costs—equivalent to almost *90 percent* of the total revenue requirement authorized in Liberty's General Rate Case at the time of the fire.[64] SBUA's effort to compare denial of cost recovery here to other proceedings oversimplifies and misunderstands the nature and relative magnitude of these costs.

III.

Imprudence Must Be Causally Related to the Costs to Support Any Disallowance

Section 451.1 specifies: "Costs and expenses arising from a covered wildfire are just and reasonable if the conduct of the electrical corporation *related to the ignition* was" reasonable.[65] That language reflects that any allegedly imprudent policy, program, or practice must have a clear causal

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60 *Id.* at 16–17.

61 D.25-01-042 at 5 (emphasis added). This amount was updated in SCE's rebuttal testimony and SCE sought $2.712 billion total in WEMA costs.

62 *See* D.25-12-023 at 3, 13.

63 *See* SBUA-01 at 7.

64 *See* D.20-08-030 at 2, App'x A (authorizing a General Rate Case revenue requirement of $86.142 million for 2019 and $89.225 million for 2020). *Compare* A.23-08-013 (requesting approximately $2.4 billion in costs associated with the 2017 Thomas Fire); D.15-11-021, App'x D (authorizing a General Rate Case revenue requirement of $5.663 billion pursuant for 2017).

65 Pub. Util. Code § 451.1(b) (emphasis added).

nexus to the ignition and the costs at issue. In addition to violating the statutory language, it would be nonsensical to deny cost recovery based on imprudence that did not cause the ignition. As Dr. Aron's prior testimony describes, "imposing liability for the costs of a wildfire as a result of" a "small deviation from the Commission's prudence standard" that did not cause the ignition would "impose[] significant regulatory risk on the utility that is disproportionate to and not necessarily related at all to the harm."[66] "[A]pplying a causation requirement for denial of cost recovery in addition to a finding of imprudence aligns the incentives of the utility with those of the Commission to invest the socially optimal amount in fire precautions."[67]

Section 451.1 also focuses on "the conduct *of the electrical corporation*." Through that language, the reasonableness standard addresses the utility's managerial decision-making process, meaning its operational programs, policies, and procedures.[68] That, too, makes good sense: A utility can establish programs, policies, and procedures to carry out its operations and priorities, and to govern hiring and training of qualified employees. But it cannot control every decision of its employees and representatives, nor every dimension of every implementation decision, to ensure that no errors are ever made. "If the company has established policies and systems for hiring, training, monitoring, and providing incentives that rigorously and in good faith are designed to induce conduct that advances the company's goals in accordance with the Commission's rules," that demonstrates prudence, even if "incorrect judgments, errors, and malfeasance may occur."[69]

A. Ignition of the Mountain View Fire Was Not Attributable to Any Imprudence

Liberty established in its opening testimony that, even assuming Liberty's facilities were associated with ignition of the Mountain View Fire, the ignition was not caused by any imprudence. As described above and in *Liberty-03*, Liberty had implemented a suite of measures to mitigate the risk of wildfire and was diligently executed on its approved WMP at the time of the fire. More broadly, Liberty prudently designed and constructed, inspected and maintained, and operated its system. Cal Advocates raises an array of critiques of Liberty's inspection and maintenance practices—contending that Liberty

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66 Ex. SCE-01, Vol. 02, A.23-08-013 at 51.

67 *Id.*

68 That aligns with the Commission's pre-AB 1054 precedent focusing on whether a utility's "managers" acted within the bounds of reasonableness. *See, e.g.*, D.09-07-021 at 64– 65; *see* Liberty-01 at 5 & n.10.

69 Ex. SCE-01, Vol. 02, A.23-08-013 at 37.

did not adequately inspect the Topaz 1261 Circuit, that Liberty identified both *too many* and *too few* issues for remediation, and that Liberty overlooked risks on the circuit because of alleged recordkeeping deficiencies. Many of those critiques are without merit, as explained further in *Liberty-10*. More importantly, none undermines Liberty's showing that it prudently inspected and maintained the Subject Span where the Mountain View Fire ignited.

Liberty completed detailed inspections of the Specific Facilities just six months before the fire as part of its 2020 asset survey of its entire system. Those inspections confirmed the condition of the Subject Span, the East Pole and the West Pole, and identified no safety hazard or clearance issue.[70] And even closer in time, on the morning of November 17, 2020, Liberty field personnel patrolled the length of the Topaz 1261 Circuit downstream of the 1261 R2 Recloser, including the Subject Span, in response to an outage. In other words, Liberty patrolled the Subject Span and confirmed there were no obvious issues *just hours* before the phase-to-phase fault and conductor separation. These inspections prove that the Subject Span was in good condition at the time the Mountain View Fire ignited, and Cal Advocates' broad critiques of Liberty's inspection and maintenance practices and associated recordkeeping do not alter those basic, undisputed facts.

Cal Advocates further asserts that there must have been a clearance issue under General Order ("GO") 95 on the Subject Span because there was a phase-to-phase fault when two of the conductors made contact. There was no clearance issue in the design of Liberty's facilities on the Subject Span. As detailed in *Liberty-03*, the configuration of these facilities increased conductor spacing to 54 inches by placing the center phase conductor on top of the pole, rather than on one side of the cross-arm. Cal Advocates ignores that this triangular construction enhanced clearances to well in excess of GO 95 requirements and mitigated the risk of contact. The fact that there was no clearance issue on the Subject Span was confirmed (i) during detailed inspections just six months before the fire; (ii) during the circuit patrol on the day of the fire; and (iii) when conductor clearances were measured in the field at 54 inches immediately following the fire. Contrary to Cal Advocates' suggestion, the mere fact that two of the conductors made momentary contact during extreme winds on November 17, 2020, does not evidence a GO 95 issue or any imprudence. GO 95 sets forth ***design*** criteria for the construction of overhead electric lines—requirements that Liberty well exceeded. GO 95 is not an operational protocol, and Cal Advocates does not identify any specific design deficiency or otherwise suggest any alternative design.

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[70] *See* Liberty-10, Part III.

Although utilities including Liberty work to mitigate the potential for conductor contact, such events are not uncommon—as shown by WMP data reporting—and such events are not evidence of imprudence. For instance, in 2020 alone, utilities reported over 5,000 instances of conductor contact.[71] Moreover, as FERC has recognized in the course of reviewing costs from the 2007 wildfires in San Diego County, "one [regulatory] violation by a utility does not necessarily constitute imprudence, as utilities are not expected to be infallible" and "even if SDG&E had been found to have violated GO 95, that alone is insufficient."[72]

As detailed above and in *Liberty-02*, *Liberty-03*, and *Liberty-10*, Liberty prudently operated its system on November 17, 2020. Liberty quickly and appropriately responded to events on the Topaz 1261 Circuit and its system protection operated as expected. On this record, there is no basis to find any imprudence with respect to the ignition of the Mountain View Fire.

B. Intervenors Fail to Establish Any Causal Nexus for Their Critiques

More broadly, the Commission should disregard Intervenor critiques that are unmoored from the statutory standard and have no causal nexus to the ignition of the Mountain View Fire or the costs at issue in this Application. Cal Advocates presents eleven chapters of testimony covering a broad range of topics—from analysis of weather data and inspection and maintenance practices to vegetation management and pole loading. In most instances, Cal Advocates makes no attempt to tie its critique to the ignition of the Mountain View Fire.

For instance, as described in *Liberty-10*, Cal Advocates presents a series of criticisms related to Liberty's inspection and maintenance practices on its system and on the Topaz 1261 Circuit in general, including outside of where the Mountain View Fire ignited. These criticisms range from an alleged failure to timely address hazardous conditions on the Topaz 1261 Circuit, to identifying at once *too few* issues in its routine patrols of the circuit and *too many* issues as part of the 2020 asset survey, to Liberty's purported lack of diligence at the time it acquired the utility from NV Energy 15 years ago. Indeed, Cal Advocates devotes many pages of testimony to reviewing Liberty's inspection practices, highlighting the fact that Liberty was unable to produce certain inspection records from a decade or more ago, and levying various other critiques of Liberty's inspection and maintenance practices. Those

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[71] This figure encompasses wire-to-wire contacts that contributed to wire downs, outages, or ignitions, as reported by PG&E, SCE, SDG&E, Bear Valley Electric Service, Liberty, and PacifiCorp in their WMP data reporting for 2020.

[72] San Diego Gas & Electric Company, 146 FERC ¶ 63,017 at ¶¶ 55–56 (Feb. 25, 2014).

general concerns do not relate to the Subject Span, particularly in light of the recent confirmed inspections of those facilities. They therefore cannot be causal. As Liberty has also acknowledged, at the time of the Mountain View Fire, Liberty was beginning a multi-year transition to electronic inspection records that started during the COVID-19 pandemic for its 2020 asset survey, and the Commission has previously recognized that this remained an area of continuous improvement for Liberty in 2020 and the following years.

Cal Advocates also criticizes Liberty for what it perceives as a "[f]ailing to maintain pole loading records,"[73] but that also cannot be causal as Cal Advocates does not allege—nor could it—any pole failure associated with ignition of the Mountain View Fire. In other instances, such as vegetation management, Cal Advocates concedes that "vegetation growth was not a direct cause or contributor to the start of the Mountain View Fire Ignition"[74] and thus its criticisms cannot justify any disallowance. Such critiques—regardless of their basis (or lack thereof) in the factual record, as addressed in more detail in *Liberty-10*—have no bearing on the Commission's decision here because nothing Cal Advocates suggests would have prevented the Mountain View Fire.

The Commission also should disregard Cal Advocates' attempts to use selective data about Liberty's practices and facilities to retrospectively criticize its prudent conduct. For example, Cal Advocates essentially ignores records Liberty supplied regarding multiple years of detailed inspections and patrols and intrusive pole inspections when arguing that Liberty operated the Topaz 1261 Circuit without "comprehensive knowledge" of the circuit's condition from 2011 to 2020.[75] Cal Advocates' attempts to leverage a single historical ignition on the Topaz 1261 Circuit likewise are not probative. The ignition occurred more than six years earlier, on a different portion of the circuit approximately three miles away, resulted in a fire no larger than 0.25 acres, and was determined to have been caused by vegetation contact. This single historical ignition has no causal connection to the Mountain View Fire and no relevance to Liberty's request in this proceeding.

As discussed above and in *Liberty-10*, in the rare instances where Cal Advocates even suggests a possible connection to ignition of the Mountain View Fire—such as its criticism that Liberty followed its Commission-approved PSPS protocol and did not implement a PSPS de-energization, or Cal

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[73] CA-08 at 7.

[74] CA-09 at 1, 12.

[75] CA-07 at 3.

Advocates' newfound insistence that Liberty should have implemented earlier a system hardening project that Cal Advocates itself heavily critiqued in 2019—Cal Advocates' arguments do not withstand scrutiny.

IV.

Liberty's Showing That Factors Beyond Its Control Caused a Substantial Proportion of Damage From the Mountain View Fire Supports Cost Recovery

A. The Commission May Authorize Cost Recovery for External Factors Irrespective of Liberty's Prudence Showing

AB 1054 specifically recognizes that external factors influence the extent of damage resulting from a utility-caused fire, and the utility should not bear all the costs of such damage. That provision applies here, and Intervenors present no argument to the contrary.

In 2019, the California Legislature enacted AB 1054, establishing a new framework for wildfire cost recovery with an overall goal of providing more certainty and predictability to the cost recovery process. Notably, AB 1054 specifies that the Commission should "tak[e] into account factors both within and beyond the utility's control, … including humidity, temperature, and winds," which "may have exacerbated the costs and expenses" arising from the wildfire.[76] This provision reflects the Legislature's judgment that the extent of damage resulting from a utility-caused fire is influenced by a range of factors, including environmental and other factors beyond the utility's control. The Legislature directed in AB 1054 that the utility should not bear all of those costs. Importantly, AB 1054 does not condition this allocation of costs for external factors to a showing of prudence.

The provision is consistent with analysis in a 2019 report of the Commission on Catastrophic Wildfire Cost and Recovery ("SB 901 Commission Report")[77] and analysis in a 2019 report from Governor Newsom's Strike Force that addressed wildfires and climate change ("2019 Strike Force Report"). Both reports were credited in the legislative history as advancing "recommendations" that were ultimately "encompasse[d] by" the legislation, including new standards "for electric IOUs to recover costs related to catastrophic wildfires."[78]

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[76] Pub. Util. Code § 451.1(b).

[77] That Commission was created by the Legislature in SB 901 and directed to provide recommendations on how to manage the costs associated with utility-caused wildfires.

[78] AB 1054, Senate Floor Analysis at 8, 11, 12–13, 20 (as amended July 5, 2019), available at https://seuc.senate.ca.gov/sites/seuc.senate.ca.gov/files/ab_1054_analysis.pdf.

The SB 901 Commission Report emphasized the importance of reforming prudence review to "reflect[] the host of factors," including "unique, exogenous circumstances," that "contribute to the extent of wildfire damage[s]."[79] The Commission Report stated that prudence review should "not hold utilities solely liable in cases where other factors contribute to the magnitude of the damages."[80] The 2019 Strike Force Report likewise recognized that catastrophic wildfires may be "caused by utility infrastructure, but exacerbated by drought, climate change, land-use penalties, and a lack of forest management."[81] Members of the Commission previously made the same point, in a concurrence to a 2017 decision denying the application of SDG&E to recover certain wildfire costs in rates.[82] President Picker and Commissioner Guzman Aceves emphasized that the wildfire at issue was "spread by wind," which "played a key role," and demanded that the Commission be empowered "to do a more nuanced assessment of fault."[83] They "urge[d] the California Legislature to affirmatively address the issue[] of … cost allocation" in prudence review.[84] The Legislature's response to that call was Section 451.1, including its explicit direction regarding external factors.[85]

B. Intervenors Do Not Dispute Liberty's Showing That Factors Beyond Liberty's Control Exacerbated the Damages Resulting from the Mountain View Fire

Intervenors do not challenge the central premise of Liberty's external factors showing: that the effects of climate change and stronger-than-predicted winds shortly after ignition propelled the

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79 SB 901 Commission Report at 8 (June 17, 2019), available at https://lci.ca.gov/docs/20190618-Commission_on_Catastrophic_Wildfire_Report_FINAL_for_transmittal.pdf.

80 *Id.*

81 Office of Governor Gavin Newsom, *Wildfires and Climate Change: California's Energy Future; A Report from Governor Newsom's Strike Force*, at 2 (April 12, 2019), available at https://www.gov.ca.gov/wp-content/uploads/2019/04/Wildfires-and-Climate-Change-California's-Energy-Future.pdf.

82 D.17-11-033, Joint Concurrence of President Michael Picker and Commissioner Martha Guzman Aceves (Dec. 26, 2017).

83 *Id.* at 3, 4.

84 *Id.* at 1.

85 *See, e.g.*, AB 1054, Senate Analysis at 10 ("The CPUC's decision" denying cost recovery to SDG&E "included a concurrence by two commissioners, including President Picker, who called on the Legislature, the governor, and the courts to help address the issue of wildfire damages, the application of inverse condemnation by the courts, and financial impacts on utilities, including ratepayers."), available at https://seuc.senate.ca.gov/sites/seuc.senate.ca.gov/files/ab_1054_analysis.pdf.

Mountain View Fire to spread out of control and magnified the costs resulting from the fire. Cal Advocates focuses most of its external factors testimony on wildfire and weather risk in the Walker area and implies that Liberty should have been on notice of these risks and acted differently in the days leading up to the fire. Liberty will rebut Cal Advocates' arguments regarding fire and weather risk in *Liberty-10*; they are not relevant to and do not undermine Liberty's showing that factors beyond Liberty's control—*i.e.*, climate change and wind—substantially impacted the magnitude of damages resulting from the Mountain View Fire.

1. Climate Change Contributed to the Destructiveness of the Mountain View Fire

It is widely recognized that that the effects of climate change—rising temperatures, a long-term drying trend that increases the flammability of fuels, and an increase in the frequency of precipitation extremes that promote fuel growth—have lengthened the traditional fire season. This makes fires more likely to ignite in windier months of the year, when, historically, strong winds have coincided with wetter fuels. Fires that ignite in windy and dry conditions and receptive fuel beds are more likely to grow out of control and overwhelm suppression efforts.

The Mountain View Fire is a case in point. The Walker area has seen an overall decline in fuel moisture in the four decades preceding the fire, as measured by 1,000-hour fuels. And the fire ignited and spread rapidly during exceptional weather conditions. The humidity in the area that day was not unusual for this normally-arid region of California, but when combined with higher-than-forecast winds that ranked in the 99th percentile for this location, created the conditions conducive to rapid wildfire spread. Indeed, the combination of observed relative humidity and daily average wind speed that day ranked as the second most extreme day out of more than 15,000 days since 1979. Historically, large fires were extremely rare to ignite and spread in November in California, though their incidence has increased in recent years due to climatological factors. The Mountain View Fire was one of only two large November fires in California east of the Sierra crest since 1984 (the other being the Laura 2 Fire that ignited on the same day).

No Intervenor disputes this. Indeed, Cal Advocates concedes that the area within the Mountain View Fire's footprint had not experienced a large fire within the last decade,[86] which, as Liberty discussed in *Liberty-04*, contributed to favorable fuel accumulation that exacerbated the fire's rapid

[86] CA-03-A at A-9 & n.32.

growth, intensity, and destructiveness.[87] Cal Advocates' observations that a significant number of Red Flag Warnings were issued for the Walker area, and that the Slink Fire ignited near the Walker area earlier in 2020, help to confirm that 2020 was an extraordinary fire season for California, which Liberty noted in its opening testimony.[88]

2. Strong Winds Magnified the Costs Resulting from the Mountain View Fire

As set forth in *Liberty-04*, recorded weather station data and other evidence demonstrate that strong winds caused the Mountain View Fire to spread rapidly following its ignition at approximately 12 p.m. on November 17. Those winds became even stronger through the afternoon and evening hours of November 17, with gusts reaching 85 mph at times. Propelled by these extraordinary winds, the Mountain View Fire grew explosively in the first 12–14 hours after ignition. As indicated in Figure 5, the fire had burned approximately 20,361 acres—99.9% of the fire's ultimate footprint—by approximately 2:00 a.m. on November 18, when winds began to subside and precipitation began to fall. After that point, the fire's progression was essentially halted, thus demonstrating the decisive effect of the weather conditions on the damage caused by the fire.

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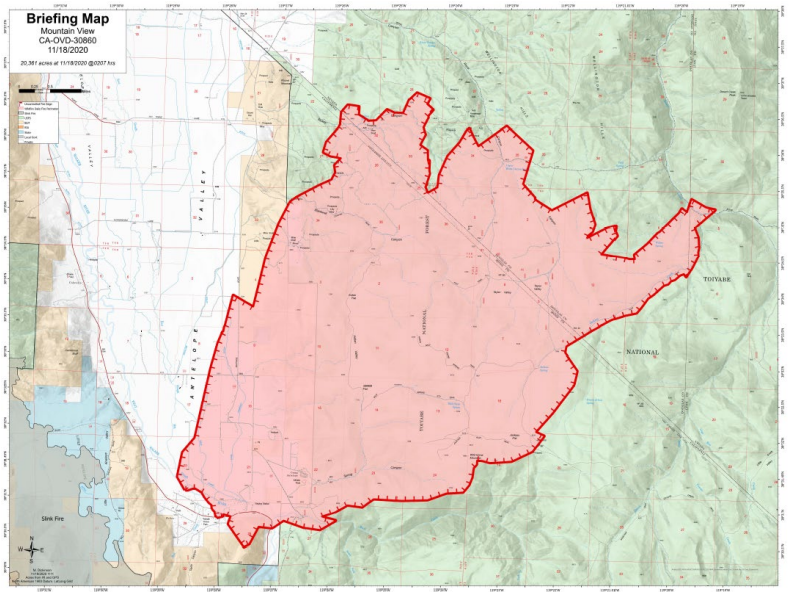
[87] Liberty-04 at 10.

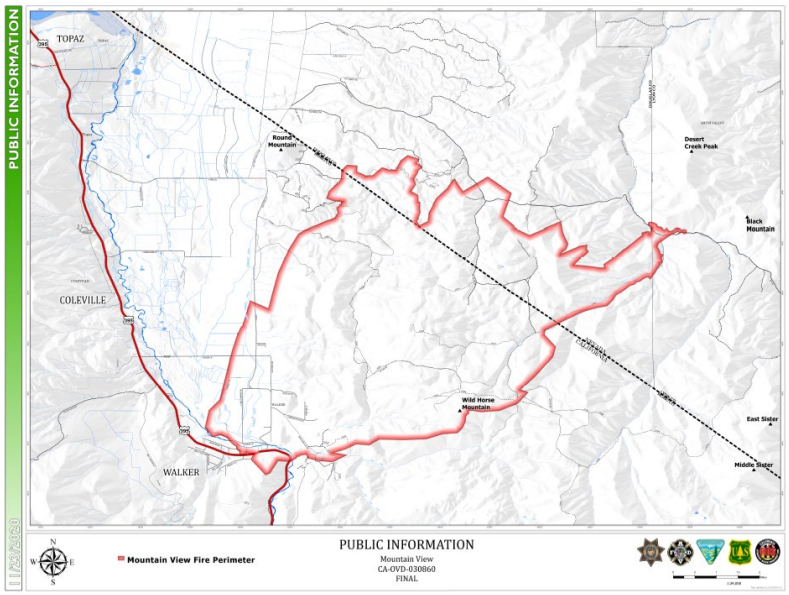
[88] *See* Liberty-03E at 41 (observing that more than 4 percent of the state's total acreage burned in wildfires that year); Liberty-04 at 9.

Figure 5: Comparison of Mountain View Perimeter Maps [89]

Perimeter as of 2:00 a.m. on November 18, 2020



Final Perimeter on November 23, 2020



The fire's extreme behavior under such strong winds also made fire suppression in the initial hours dangerous and ineffective. Aerial suppression was nearly impossible and ground personnel were forced to focus on protecting life and safety rather than defending properties and structures. As

[89] The perimeter map as of 2:00 a.m. on November 18, 2020 showed the fire size as approximately 20,361 acres. The final perimeter map produced on November 23, 2020 showed the fire size as approximately 20,385 acres.

Antelope Valley fire chief Rich Nadler noted at the time, emergency response personnel initially tried to defend structures downwind, but "were forced out due to unsafe conditions."[90]

Using claims data and fire progression modeling, Liberty estimates that approximately $82.8 million in settlement payments could have been avoided had winds been just 15 mph slower in the hours after ignition.[91] This showing supports cost recovery by Liberty.

Cal Advocates' testimony does not dispute that the destructiveness of the Mountain View Fire was propelled by strong winds or that a substantial portion of the damages could have been avoided under milder wind scenarios. Indeed, Cal Advocates' testimony supports these conclusions. For instance, Cal Advocates emphasizes in multiple chapters of testimony that wind gusts were high on the day of ignition, exceeding the gusts seen during the Red Flag Warning period on November 6, 2020 and ranking as "the highest recorded since the end of August."[92] Cal Advocates also acknowledges that winds continued to increase after the time of ignition.[93] These observations are consistent with Liberty's analysis of wind data in *Liberty-04*, through which Liberty arrived at the same conclusions: winds increased substantially after ignition (compare CA-03-A, Figure 8 with *Liberty-04*, Figure 4, reproduced below) and maximum wind gusts observed on November 17, 2020 were exceptional for the Walker area.[94]

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[90] CA-02, App'x B, Attachment 22, Antelope Valley Fire Protection District Mountain View Fire Incident Report, at CA-02-0613.

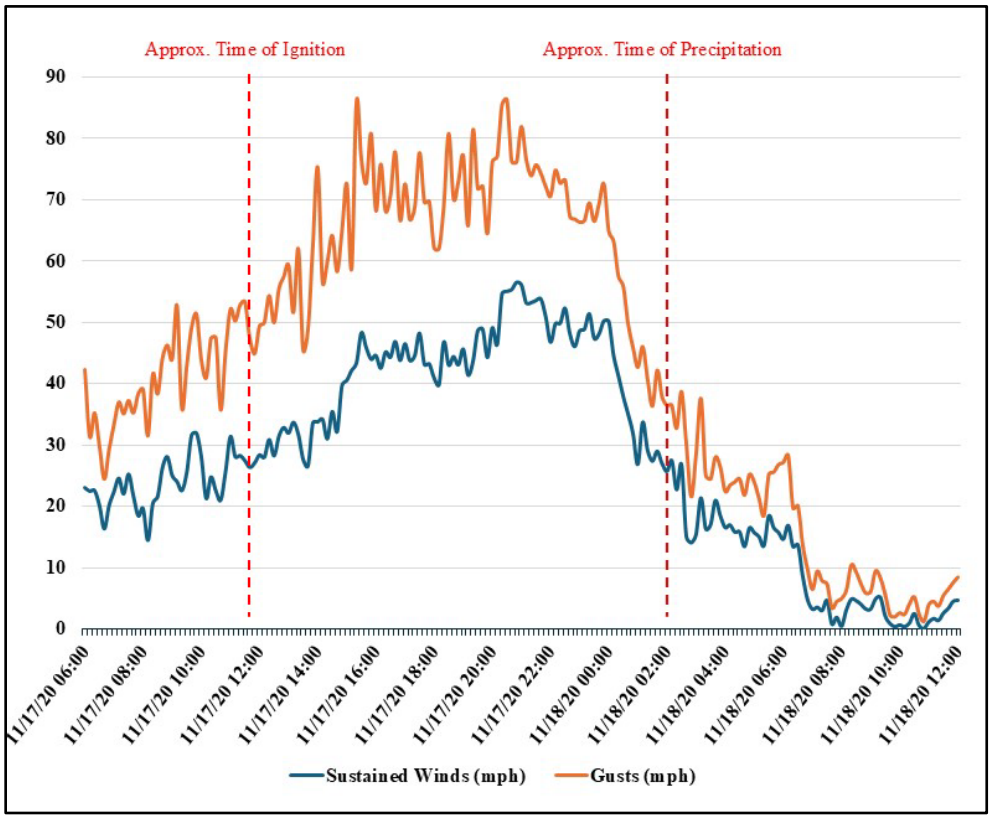
[91] *See* Liberty-04 at 19–21 & Fig. 9.

[92] CA-03-A at A-19–A-21.

[93] *See id.* at A-20, Fig. 8.

[94] *See* Liberty-04 at 6–7 & Fig. 1.

Figure 6: Reproduction of Figure 4 from Liberty-04, Showing Wind Speeds Near Origin Area (November 17-18, 2020)



Cal Advocates presents no testimony at all challenging Liberty's analysis of documentary evidence (including eyewitness photos, videos, and perimeter maps), which showed that the Mountain View Fire exhibited signs of a rapidly growing wind-driven fire in its initial hours; that those winds made fire suppression challenging; that the fire would have been contained to a much smaller footprint under milder wind conditions; or that, had winds been just 15 mph slower, over $82 million in total costs could have been avoided. In other words, Cal Advocates' presentation only bolsters Liberty's claim that a substantial portion of costs resulting from the Mountain View Fire was attributable to "factors … *beyond the utility's control*."[95]

[95] Pub. Util. Code § 451.1(b) (emphasis added).

V.

Cost Recovery Is in the Public Interest

As described in *Liberty-01*, granting Liberty's request for cost recovery is in the interest of Liberty, its customers, and the State.[96] It is consistent with cost-of-service ratemaking, which means that utilities must be able to recover the prudent costs associated with providing service to customers; and it accommodates the inverse condemnation doctrine, which exposes utilities to strict liability claims based on an assumption that the resulting costs will be spread through rates.[97]

No party disputes Liberty's demonstration that AB 1054 was designed to support regulatory predictability and the ability of utilities to access capital at reasonable costs.[98] Similarly, no party contests Liberty's showing that carrying these costs on its balance sheet has strained its credit metrics, and that favorable resolution of this proceeding will support Liberty's financial stability, promote investor confidence, and ultimately benefit customers.[99]

As described in *Liberty-01* and in more detail in *Liberty-07*, Liberty's cost recovery proposal supports customer affordability and serves the public interest. Liberty proposes to recover the authorized WEMA costs over a 36-month period through a volumetric surcharge on customer bills via a balancing account. That cost recovery proposal accommodates the significant quantum of costs at issue relative to Liberty's size and customer base (of 50,000 customers). It avoids rate shock, reduces long-term customer costs, and supports Liberty's financial recovery.[100]

Intervenors offer no persuasive basis to reject Liberty's proposal. As described above, SBUA's arguments are premised on its misunderstanding of prior resolutions of cost recovery proceedings.[101] Cal Advocates criticizes the rate and bill impact of cost recovery, but stops short of embracing an alternative cost-recovery mechanism. It suggests that the Commission "should consider" a longer amortization period, such as five years.[102] But as Cal Advocates recognizes, Liberty did consider other

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96 Liberty-01 at 9–14.

97 *Id.* at 10, 13.

98 *Id.* at 10 ("[R]eady access to capital on reasonable terms is the lifeblood of a public utility.")

99 *Id.* at 10–11.

100 *See id.* at 14; *see generally* Liberty-07, especially at 4–5.

101 *See supra* Section II.C.3.

102 CA-11 at 3–4.

amortization periods (as well as securitization financing).[103] As Cal Advocates further concedes, a longer amortization period would produce higher overall costs to customers.[104]

Liberty selected a three-year amortization period because it best balances the imperative for customer affordability (by reducing rate shock and financing costs) with the need for recovery of costs prudently incurred. That, in turn, assures Liberty's financial stability and access to capital at reasonable costs—serving a primary objective of the Legislature in adopting AB 1054.[105]

[103] *Id.*, App'x B, Attachment 1, Liberty's response to CalAdvocates-LIB-A2506017-012, Questions 1–6.

[104] *Id.* at 3–4.

[105] *See* AB 1054 (2019–2020 Reg. Sess.), Sec. 1(a)(4) ("ratepayers benefit from low utility capital costs in the form of reduced rates"); Strike Force Report at 3 ("Utilities rely on credit to finance ongoing infrastructure investments, including fire mitigation. As utilities' credit ratings deteriorate, their borrowing costs increase and those costs for capital necessary to make essential safety improvements are passed directly to customers. These downgrades … directly impact Californians' access to safe, reliable and affordable electricity.").