Application No.:	A.25-06-017
Exhibit No.:	Liberty-11
Witnesses:	S. Yang M. Rao

(U 933-E)

Mountain View Fire Cost Recovery Application

Before the California Public Utilities Commission

Liberty-11: Litigation and Claims Resolution, Legal and Financing Costs Rebuttal

Tahoe Vista, California

January 23, 2026

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I.

Executive Summary

This chapter of testimony provides Liberty Utilities (CalPeco Electric) LLC's ("Liberty") response to Cal Advocates' Testimony on Litigation and Claims Resolution, *CA-10*.

Neither Cal Advocates nor any other party presented testimony challenging (a) the reasonableness of Liberty's decision to settle the Mountain View Fire claims rather than take the cases to trial, (b) the reasonableness of attorneys' fees and other litigation costs incurred by Liberty to defend and settle the claims, or (c) the reasonableness of Liberty's costs to finance the settlements and litigation costs.

While Cal Advocates asserts that Liberty has not demonstrated prudence in its settlement negotiations, the only specific critiques raised by Cal Advocates relate to the settlement of Subrogation Plaintiff claims. Those critiques are without merit. Liberty exercised reasonable business judgment in the settlement of those claims, and Cal Advocates offers no basis on which to second guess Liberty's judgment in this regard.

In addition to addressing the foregoing issues, this chapter also describes the current status of the few remaining outstanding claims related to the Mountain View Fire and updates Liberty's showing to account for legal and financing costs as of December 31, 2025. These updates include additional litigation-related costs incurred from June 1, 2025 through December 31, 2025 (the "Update Period"), which total approximately $117,836. The updates also reflect actual financing costs incurred during the Update Period, as well as an updated estimate of future financing costs. These updated financing costs reflect a ***reduction*** relative to the projected financing costs presented in the Application and *Liberty-06* due to favorable financing terms associated with the longer-term financing secured by Liberty in September 2025.

II.

Liberty's Settlements of Mountain View Fire Claims Were Reasonable

In *Liberty-05*, Liberty demonstrated the reasonableness of its settlements of Mountain View Fire claims.[1] Cal Advocates broadly challenges the reasonableness of Liberty's settlements but offers no

[1] *Cf.* Ex. SCE-06, A.23-08-013 at 11–12 (describing settlement process with certain public entities), 13–23 (describing settlement process with individual plaintiffs); Ex. SCE-05, A.24-10-002 (CA-10, App'x B, Attachment 5) at 11–12 (describing settlement process with public entities), 13–22 (describing settlement process with individual plaintiffs).

specific critique with respect to settlement of Individual Plaintiffs and Public Entity claims. Thus, Liberty's showing regarding the reasonableness of its settlements with Individual Plaintiffs and Public Entities is undisputed. With respect to Subrogation Plaintiff claims, Cal Advocates raises various critiques of Liberty's settlement of those claims, which are unpersuasive for the reasons discussed below.

A. Cal Advocates' Criticisms of the Subrogation Plaintiffs Settlement Are Without Merit

Cal Advocates' challenges related to the Subrogation Plaintiffs settlement are without merit.

Settlement Rates for Individual and Public Entity Plaintiffs. Liberty settled the Subrogation Claims for $[redacted] of each dollar the Subrogation Plaintiffs paid to their insureds and set aside in reserves, and less than [redacted]% of the total claimed amounts, including attorneys' fees and costs. Cal Advocates incorrectly asserts that, because the percentages for settlements with Individual Plaintiffs and Public Entity Plaintiffs were lower, this supposedly calls into question the Subrogation Claims settlements.[2] However, the differing nature of the claims explains why Subrogation Claims settlement percentages are a higher percentage of their total asserted claim amount than other categories of plaintiffs.[3] Subrogation Plaintiff claims generally reflect amounts certain—the amounts that insurers paid out to their insureds with respect to the fire.[4] With other categories of claims, Liberty could more readily challenge claimed amounts as subjective or excessive by presenting its own expert valuations. Liberty appropriately considered and evaluated the different claims in negotiating settlements with the various plaintiffs.

Wildfire Fund Threshold for Evaluation of Subrogation Settlements. Cal Advocates cites to the 40% figure referenced in Public Utilities Code section 3292 as a "benchmark" against which to evaluate the Subrogation Claims settlements. However, Cal Advocates misconstrues the nature of this so-called "benchmark."[5] The 40% is merely a threshold at which the Wildfire Fund administrator shall presume

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[2] CA-10 at 2.

[3] *Cf.* Ex. SCE-06, A.23-08-013 at 12, 13, 17 (noting that SCE settled subrogation claims at a higher proportion of claims than individual plaintiffs' and public entities' claims); Ex. SCE-05, A.24-10-002 (CA-10, App'x B, Attachment 5) at 12, 13, 17 (same).

[4] Liberty nevertheless had its damages experts evaluate the amounts of the Subrogation Claims. It is further noteworthy, however, that the insurers who paid out the subrogated claims amounts in the first instance had incentives to carefully review and analyze each insured's claim before making those payments. That a third party interested in outcome had affirmed the validity and amounts lent further credence to the size of the Subrogation Claims.

[5] CA-10 at 2.

reasonableness absent exceptional circumstances.[6] But this does not translate into a benchmark as to whether settlement amounts above 40% are reasonable, much less any sort of presumption against the reasonableness of amounts above 40%. The statute merely establishes that settlements above 40% of claim amounts will be reviewed and evaluated under the "reasonable business judgment" standard.[7] Notably, Cal Advocates does not identify any wildfire case where subrogation claims were settled for 40% or less of the total claims.

Liberty exercised reasonable business judgment in reaching the Subrogation Claims settlements. This business judgment included Liberty's consideration of the liquidated nature of the claims; the fact that the attorneys' fees aspects of the claims would grow if Liberty continued to litigate; and the potential for full recovery of amounts paid by Subrogation Plaintiffs plus attorneys' fees and costs if the matters went to trial.

Woolsey Fire Settlement Comparison. Cal Advocates incorrectly asserts that the settlement of subrogation claims in the Woolsey Fire, at 67% of the amounts paid to policyholders, reflects negatively on Liberty's settlement at roughly [redacted]% of the amounts paid. The difference between those two settlement levels is not particularly dramatic and is easily explained by the distinct circumstances.

Most critically, the Woolsey fire involved vastly larger claims than the Mountain View Fire. In Woolsey, SCE's settlements with subrogation plaintiffs totaled approximately $2.43 billion, many orders of magnitude higher than Liberty's subrogation settlement here.[8] However, legal fees—which are recoverable under inverse condemnation as part of a subrogation claim—generally are not directly proportional to the total claim amount. Thus, the legal fees incurred by Subrogation Plaintiffs in the Mountain View Fire likely accounted for a much larger proportion of their total claim than for the

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[6] Pub. Util. Code § 3292(f)(1) states: "Settlements of subrogation claims that are less than or equal to 40 percent of total asserted claim value as determined by the administrator shall be paid unless the administrator finds that the exceptional facts and circumstances surrounding the underlying claim do not justify …."

[7] "The administrator ***shall approve*** *a settlement* of an eligible claim that is a subrogation claim if the settlement exceeds 40 percent of the total asserted claim value, as determined by the administrator, and includes a full release of the balance of the asserted claim *so long as* the administrator finds that the electrical corporation exercised its *reasonable business judgment* in determining to settle for a higher percentage or on different terms based on a determination that the specific facts and circumstances surrounding the underlying claim justify a higher settlement percentage or different terms." Pub. Util. Code § 3292(f)(2) (emphasis added).

[8] *See* Ex. SCE-05, A-24-10-002 (CA-10, App'x B, Attachment 5) at 12. By comparison, Liberty's subrogation settlements totaled $29.5 million, roughly 0.12% of SCE's subrogation settlements total.

Woolsey Fire, a fact that Cal Advocates fails to account for in its cursory analysis. A more apples-to-apples comparison would be to account for plaintiffs' attorneys' fees potentially recoverable as part of the Subrogation Claims here, which indicates that Liberty settled with Subrogation Plaintiffs for less than 60% of the total claim amount including attorneys' fees[9]—a number not meaningfully different from the subrogation settlements related to the Thomas and Woolsey Fires. For the same reason, Liberty also faced significant litigation risk given the potential that proceeding to trial would increase Subrogation Plaintiffs' attorneys' fees and other costs as a percentage of the total claimed amounts even further.

Liberty appropriately considered the relative magnitude of plaintiffs' attorneys' fees and costs, and their likely future growth relative to subrogation amounts, in exercising reasonable business judgment in settling these claims.

Hypothetical Impact of Sale of Subrogation Plaintiff Claims to Investment Firms. Cal Advocates speculates—without any basis—that the Subrogation Plaintiffs settlement rate "may be inflated" due to possible sale of those claims to third-party investors.[10] Cal Advocates presents no evidence that Subrogation Plaintiff claims related to the Mountain View Fire were sold to third-party investors prior to settlement and Liberty is aware of no such thing. Indeed, Liberty provided Cal Advocates with a list of each Subrogation Plaintiff with whom Liberty settled—each of which is an *insurance company*, not an investment firm.[11] Thus, Cal Advocates' speculative assertions regarding the hypothetical impact of sales of subrogated claims have no basis in fact nor any relevance to this proceeding.

In any event, Cal Advocates does not identify anything that Liberty reasonably should have done differently with respect to settlement negotiations in the face of hypothetical third-party purchasers of Subrogation Plaintiff claims or otherwise. Liberty's settlement efforts were reasonable and appropriate as set forth in *Liberty-05*.

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[9] The Woolsey settlement briefing does not state the size of the subrogation plaintiffs' attorneys' fees (*id.*) but it is implausible that attorneys' fees there would have been even close to a comparable proportion of the subrogated claims amounts.

[10] CA-10 at 3–4.

[11] *See* CA-10, App'x B, Attachment 4, Liberty's response to CalAdvocates-LIB-A2506017-025, Question 2.

B. Privilege and Confidentiality With Respect to Settlements

Cal Advocates asserts that the mere fact that Liberty asserted privileges and confidentiality with respect to individual settlement negotiations and privileged claims valuations undermines Liberty's showing of reasonableness of the settlements.[12] This is incorrect as a matter of both logic and law. Cal Advocates does not explain why settlements cannot reasonably be presented and reviewed by categories rather than individually. Nor does Cal Advocates cite any precedent in support of its position.

To the contrary, the Commission frequently evaluates settlements where negotiations and claim evaluations are privileged and/or confidential.[13] Indeed, in the context of settlements in Commission proceedings, Commission rules *require* that settlement discussions be excluded.[14] Liberty is not foreclosed from establishing reasonableness merely because it appropriately protected confidentiality and privilege.

In any event, Liberty provided substantial information about the settlement amounts. As indicated in Liberty's data responses, the settlement with the Subrogation Plaintiffs involved a single aggregate amount that did not include a specific allocation of the amount by plaintiff, and the settlement with the Public Entity plaintiffs likewise was in a single aggregate amount that did not include a specific allocation by plaintiff.[15] With respect to a group of 131 of the Individual Plaintiffs, the settlement amount likewise did not allocate as to individual plaintiffs.[16] As to the remainder of the Individual

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[12] CA-10 at 1.

[13] *See, e.g.*, D.14-11-040 at 68 (decision approving settlement agreement for rate recovery issues, overruling objections based on inability to discover various settlement facts regarding what was said during negotiations, stating "questions about settlement negotiations which are generally considered inadmissible"; also affirming exclusion of cross-examination regarding utility's legal position as privileged); *see also* D.12-11-051 at 495–498 (overruling Division of Ratepayer Advocates' ("DRA") objection to SCE assertions of privilege as to estimated future settlement amounts, and noting that DRA could still probe the reasonableness of the claims reserve).

[14] CPUC Rule 12.6 states: "No discussion, admission, concession or offer to settle, whether oral or written, made during any negotiation on a settlement shall be subject to discovery, or admissible in any evidentiary hearing against any participant who objects to its admission. Participating parties and their representatives shall hold such discussions, admissions, concessions, and offers to settle confidential and shall not disclose them outside the negotiations without the consent of the parties participating in the negotiations."

[15] CA-10, App'x B, Attachment 3, Liberty's amended response to CalAdvocates-LIB-A2506017-009, Question 12.

[16] *Id*.

Plaintiffs, Liberty properly objected that the settlement agreements made those terms confidential, but nevertheless provided Cal Advocates with significant information as to the ranges of settlement amounts for Individual Plaintiffs and for households, as well as the medians and modes.

In short, Liberty provided adequate information for evaluation of the reasonableness of these settlements related to the Mountain View Fire.

III.
Updates to Litigation and Financing Costs

Other parties did not raise issues regarding Liberty's litigation and financing costs set forth in the Application and opening testimony, representing costs as of May 31, 2025. Liberty presents the following to update its litigation and financing costs as of December 31, 2025. As set forth in Liberty's Application and supporting testimony, Liberty proposes to recover these updated costs through this Application and proposes that costs incurred after December 31, 2025 be recovered through a Tier 2 Advice Letter process.[17]

Table 1: Summary of Litigation-Related Costs as of December 2025 ('000s) (Updated)

Costs including reimbursements to outside counsel

Cost Type	**Total ('000)**	
Expert Consultant	$	1,194
Litigation		136
Mediation		105
Outside Counsel - Litigation		3,482
Total WEMA- eligible costs	**$**	**4,917**
Insurance recoveries		(750)
Net WEMA-eligible litigation costs	**$**	**4,167**

A. Updated Litigation-Related Costs

During the Update Period—June 1, 2025 through December 31, 2025—no additional Mountain View Fire claims were settled. A small number of Mountain View Fire claims remain open: two Public Entity Plaintiffs (BLM and USDA, jointly represented) and three Individual Plaintiffs. With respect to

[17] *See* Liberty-07 at 4.

the Public Entity Plaintiffs, Liberty has been engaged in ongoing settlement discussions during the Update Period, but a settlement does not appear imminent. One of the Individual Plaintiffs is not represented by counsel and has not been participating in the litigation. Based on plaintiff's non-responsiveness, Liberty filed a motion to compel discovery responses, which was scheduled for hearing on January 22, 2026.[18] With respect to the other two Individual Plaintiffs, Liberty recently reached a settlement in principle but has not yet executed an agreement or made payment.

During the Update Period, Liberty incurred approximately $117,836 in litigation costs, consisting almost entirely of outside counsel fees for litigation and settlement efforts related to the above-referenced remaining Public Entity and Individual Plaintiff claims. Like the litigation costs reflected in the Application, these costs were reasonably and necessarily incurred to litigate and attempt to settle the handful of outstanding claims. As discussed in Liberty's opening testimony, Liberty reasonably incurred $4.8 million of litigation costs through May 31, 2025, offset by $750,000 of insurance recoveries, leaving net WEMA litigation costs of $4.050 million. The additional Update Period litigation costs, added to the litigation costs reflected in the Application, bring Liberty's total litigation costs to $4.917 million, and litigation costs net of insurance recoveries to $4.167 million.

B. Updated Financing Costs

Effective September 4, 2025, Liberty entered into a secured seven-year note ("Note"), at a fixed interest rate of 5.429%, to replace the short-term intercompany loans that financed the litigation and settlement costs up to that date. The Note was beneficial because it set a fixed and favorable rate, allowing predictability. Thus, for the Update Period, Liberty's financing costs were at the short-term intercompany loan rate from June 1, 2025 through August 31, 2025, and at the Note rate starting September 2025. Applying these rates to the costs for claims resolution and litigation, Liberty incurred financing costs of $2.089 million from June 1, 2025 through December 31, 2025. Adding this amount to the financing costs reflected in the Application for the period from January 1, 2021 to May 31, 2025 ($2.841 million)[19] yields total financing costs from January 1, 2021 through December 31, 2025 of $4.930 million, inclusive of related legal fees and expenses.

In addition, as explained in Liberty's opening testimony, Liberty will continue to incur costs to finance its litigation and settlement costs until those costs are fully recovered in rates. Applying the

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[18] At the hearing, the Court indicated it would be granting Liberty's motion to compel, but has not yet issued a formal order.

[19] *See* Liberty-06 at 5.

Note interest rate to the balance of litigation and settlement costs as of December 31, 2025, and assuming the time period for recovery is the three-year amortization requested in the Application, Liberty will incur future financing costs from January 1, 2026 through August 2029 of approximately $8.496 million.

Below is an updated version of Table 2 presented in *Liberty-06*,[20] reflecting Liberty's updated forecast of financing costs, in total and by year. Reflecting all updates, total financing costs, including actual incurred through December 31, 2025 ($4.930 million), plus forecasted future costs ($8.496 million), are $13.426 million.

Table 2: Forecasted Financing Costs ('000s) (Updated)

Timeframe	Initial Amount	Updated Amount
2026	4,075	3,760
2027	3,104	2,856
2028	1,718	1,578
2029	330	302
Total forecasted financing costs	**$ 9,227**	**$ 8,496**

As noted in *Liberty-12*, the proposed cost recovery as of December 31, 2025, including forecasted financing costs, has decreased from $78.2 million to $77.4 million due to financing costs from the Note being lower than those anticipated at the time of Liberty's Application.

[20] *Id.* at 7.