Application No.:	A.25-06-
Exhibit No.:	Liberty-01 LIB-1
Witnesses:	E. Schwarzrock

(U 933-E)

Mountain View Fire Cost Recovery Application

Before the California Public Utilities Commission

Liberty-01: Policy

Tahoe Vista, California

June 20, 2025

Liberty-01: Policy

Table Of Contents

Section		Page	Witness
I.	Executive Summary	1	E. Schwarzrock
II.	Summary of Relief Requested	3	
III.	Background on the Mountain View Fire	3	
IV.	The Commission Should Authorize Cost Recovery	4	
	A. The AB 1054 Framework	4	
	B. Liberty Prudently Managed Its System in Relation to the Mountain View Fire	6	
	C. External Factors Including Winds, Fuel, and Climatological Conditions Exacerbated the Damage Caused by the Mountain View Fire	7	
	D. Liberty Reasonably Defended Against and Resolved Third-Party Claims	8	
	E. Liberty Reasonably Financed the WEMA Costs Related to the Mountain View Fire	9	
V.	Cost Recovery Is in the Public Interest	9	
	A. Granting Cost Recovery Supports Liberty's Financial Health, Which Benefits Customers and the State	9	
	B. The Commission Should Consider California Courts' Application of the Inverse Condemnation Doctrine to Public Utilities	13	
VI.	Liberty's Cost Recovery Proposal Supports Customer Affordability	14	

I.

Executive Summary

Through its Application and this supporting testimony, Liberty Utilities (CalPeco Electric) LLC ("Liberty") demonstrates that it should be authorized to recover the costs incurred to defend and settle claims arising from the Mountain View Fire, a wildfire that ignited in Liberty's service area in November 2020. Liberty seeks recovery of approximately $78.2 million in costs to resolve third-party claims arising from the fire as well as associated legal and financing costs. As of May 31, 2025, Liberty has incurred a total of approximately $179.7 million in costs to defend and resolve third-party claims; the majority of these costs were covered by insurance recoveries of approximately $116 million, covering roughly 64% of that total. As set forth in *Liberty-07: Cost Recovery*, Liberty seeks authorization to recover its uninsured costs, as well as its incurred and ongoing financing costs.

Liberty has operated as a utility in California since approximately 2011, when it purchased the utility system from NV Energy and began serving customers in the service area previously served by Sierra Pacific Power Company ("Sierra Pacific"). Liberty is a small investor-owned utility, serving approximately 50,000 customers across seven counties in the Lake Tahoe region of northern California. In the years preceding the Mountain View Fire, Liberty prudently designed, inspected, maintained, and operated its facilities to provide safe and reliable service to its customers. Though Liberty had not experienced a large wildfire attributed to electrical infrastructure in its service area since taking over from Sierra Pacific, Liberty recognized the risk of wildfires in its service area and took steps to mitigate that risk. The 2017 and 2018 wildfire seasons demonstrated the evolving risk landscape across the State, particularly in Northern California. Those events altered the collective understanding of wildfire risk, prompting State and local policymakers, the Commission, electric utilities like Liberty, and others to do more. This led to the enactment of Senate Bill 901 ("SB 901") in 2018, followed by Assembly Bill 1054 ("AB 1054") in 2019, among other measures.

This Application is subject to the framework established in AB 1054 for recovery of costs arising from a covered wildfire. Under AB 1054, the Commission "shall allow cost recovery if the costs and expenses are just and reasonable."[1] As set forth in *Liberty-03: Prudence of Operations*, Liberty satisfies that standard because its actions and practices at the time of the Mountain View Fire were consistent with those "a reasonable utility would have undertaken in good faith under similar circumstances" at

[1] Cal. Pub. Util. Code § 451.1(b).

that point in time.[2] Indeed, at the time the fire ignited, Liberty had an approved Wildfire Mitigation Plan ("WMP") and was diligently executing on that plan to prudently manage and mitigate wildfire risk across its service area.

The California Department of Forestry and Fire Protection ("Cal Fire") investigated the Mountain View Fire and determined that electrical facilities were the "most probable" cause of the fire.[3] In connection with the litigation related to the fire, Liberty engaged an experienced wildland fire origin and cause expert to perform a technical peer review of the fire agency report and investigation. In his opinion, the fire agency investigation was not sufficiently thorough, and the cause of the fire should have been identified as undetermined. That said, the possibility that electrical facilities caused the Mountain View Fire cannot be ruled out, and Liberty acknowledges there is evidence consistent with such a conclusion. Assuming Liberty's facilities were the cause of ignition, Liberty demonstrates that the ignition was not caused by any imprudence by Liberty. Liberty prudently designed, inspected, maintained, and operated its facilities to provide safe and reliable service to its customers at the time of the Mountain View Fire. Liberty's programs and policies conformed to regulatory requirements and were consistent with industry practices for wildfire mitigation.

Liberty further demonstrates through this Application that external factors beyond Liberty's control exacerbated the damages caused by the Mountain Fire View. It is well-established that climate change has exacerbated wildfire risk across California, particularly in Northern California, contributing to fuel build-up, increasing the variability and frequency of critical fire weather days, and prolonging the traditional fire season. Indeed, the 2020 wildfire season was exceptionally long and the largest in California's recorded history, with more than 4.2 million acres or more than 4 percent of the State burned.[4] As of early November 2020, Liberty and other stakeholders had concluded that the local fire season was over, following the region's first rain/snowfall and forecasted winter storm events. Indeed, just days before the Mountain View Fire ignited, the local National Weather Service office communicated that it was moving to "off season" fire weather forecasting. On November 17, 2020, there was no Red Flag Warning in effect where the Mountain View Fire ignited, and Liberty's fire risk forecasting tool showed the Fire Potential Index ("FPI") in the area as "low" as of that morning.

---

[2] *Id.*

[3] Liberty-02C, Appendix A at 21.

[4] Cal Fire, *2020 Incident Archive*, https://www.fire.ca.gov/incidents/2020/.

However, the conditions proved more extreme than predicted and propelled the fire's rapid growth and destructiveness. Wind speeds in the area increased substantially after the fire ignited and persisted for the first 12-14 hours of the fire's spread until progression of the fire was slowed by the onset of precipitation early the following morning. The fire caused nearly all of its damage during that critical initial window, and modeling shows that lower wind speeds would have avoided or reduced a significant amount of the damage in this time frame.

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. These costs were reasonably and prudently incurred by Liberty in connection with its provision of electric service. The total quantum of costs at issue is particularly significant for Liberty given its small size. Authorizing Liberty to recover its costs associated with the Mountain View Fire 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. Moreover, Liberty's cost recovery proposal is reasonable and supports customer affordability by enabling the costs to be recovered over a three-year time period.

II.

Summary of Relief Requested

Liberty requests Commission authorization to recover the following costs incurred in connection with the 2020 Mountain View Fire, which are or will be recorded in Liberty's WEMA:

- Approximately $59.85 million in costs to resolve third-party claims, net of insurance, including claims payments to individual claimants, subrogated insurers, and public entities.

- Approximately $4.05 million in costs to defend and settle claims, net of insurance, including costs for outside counsel and experts to defend claims.

- Approximately $2.84 million through May 31, 2025 in costs incurred to finance the costs identified above and financing costs to be incurred pending Liberty's anticipated recovery of the costs approved in this Application, currently estimated to be approximately $11.48 million.

III.

Background on the Mountain View Fire

The Mountain View Fire ignited on November 17, 2020, near the town of Walker, California in Mono County. Fire suppression resources responded shortly after 12:00 p.m. to a reported fire in the field adjacent to the Mountain View Barbeque on Highway 395. High winds that increased in the

afternoon and evening of November 17, 2020 caused the fire to spread rapidly. According to the investigation report issued by Cal Fire (referred to herein as the "fire agency report"),[5] the Mountain View Fire ultimately burned more than 20,000 acres, consumed nearly 100 structures, and resulted in one civilian fatality.

Cal Fire conducted the investigation into the origin and cause of the fire, and its findings are set forth in the fire agency report. While fire agency investigators recognized other possible causes of the fire given the proximity to Highway 395, they ultimately concluded that the "most probable" cause of the fire was an energized conductor contacting the ground, igniting grassy fuels.[6] The Commission's Safety and Enforcement Division also investigated the Mountain View Fire. No investigation report was issued, and no alleged violations were identified to Liberty.

Following the Mountain View Fire, claims by individual claimants, subrogated insurers, and public entities were brought against Liberty. The civil lawsuits filed against Liberty sought compensation for damages caused by the fire, alleging claims based on inverse condemnation, negligence, and other statutory and common law tort theories, and one individual plaintiff case involved a wrongful death claim. In light of California courts' application of the inverse condemnation doctrine to investor-owned utilities like Liberty and the conclusions of the fire agency report, Liberty prudently resolved the civil litigation through settlement to minimize litigation risk for Liberty and its customers. Liberty also relied on its insurance policies to pay for a substantial majority of these costs.

IV.

The Commission Should Authorize Cost Recovery

A. The AB 1054 Framework

The Mountain View Fire ignited after July 12, 2019, and is a "covered wildfire" subject to the AB 1054 framework. Therefore, review of this Application is governed by Public Utilities Code section 451.1.[7] Section 451.1(b) provides that the Commission "shall allow cost recovery if the costs and expenses are just and reasonable." Liberty has the burden of establishing based on a preponderance of the evidence that its conduct was reasonable under Section 451.1(c). This reasonableness standard considers whether "the conduct of the electrical corporation related to the ignition was consistent with

---

[5] A copy of the report is attached as Appendix A to *Liberty-02C: Ignition*.

[6] Liberty-02C, Appendix A at 21.

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

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."[8] 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."[9]

In applying this standard, the Commission should assess Liberty's ignition-related conduct based on an evaluation of the reasonableness of the utility's overall policies, systems, and practices. This interpretation is appropriate for several reasons. The statute's reference to the utility's conduct contemplates a corporate-level evaluation of whether actions taken by utility management demonstrate reasonable judgment based on the information available at the time. AB 1054 also amended Section 8386 to require each electrical corporation to submit a wildfire mitigation plan for review and approval. The statutory requirements for these plans focus on corporate-level policies and programs that account for and seek to minimize wildfire risk, rather than the actions of individual employees. The programmatic nature of the wildfire mitigation plan approval process suggests that a utility's reasonableness should be determined based on the utility's overall policies, systems, and practices.

Indeed, utility management oversees and guides the day-to-day operations through the utility's operational programs, policies and procedures. Thus, the reasonableness of decision-making by utility management in this regard should serve as the touchstone of the Commission's review under Section 451.1. The Commission's precedent predating enactment of AB 1054 further underscores that the prudent manager standard evaluates the soundness of the utility's managerial decision-making process: "that its *managers* considered a range of possible options in light of the information that was or should have been available to them, and that its *managers* decided on a course of action that fell within the bounds of reasonableness, even if it turns out not to have led to the best possible outcome."[10]

---

[8] Cal. Pub. Util. Code § 451.1(b).

[9] *Id.*

[10] D.89-02-074 at 9 (emphasis added); D.02-08-064 at 6 (citation omitted); D.05-08-037 at 11 (citation omitted); D.09-07-021 at 64-65 (citation omitted).

Moreover, this standard does not demand perfection.[11] A perfection standard would not be possible to achieve, and the costs of attempting to do so would be prohibitive and not in the interest of customers or the public.

Applying the standard set forth in Section 451.1, the Commission "shall allow cost recovery" if it determines that "the costs and expenses are just and reasonable."[12] Even where the Commission finds some imprudence by a utility, such a finding must be "related to the ignition" in order for the Commission to disallow recovery of any costs.[13] In other words, there must be a causal nexus between a utility's imprudence and any costs disallowed, and when a utility exercises reasonable judgment and nevertheless could not avoid the costs at issue, the prudence standard supports recovery of those costs.

In addition, before disallowing any costs determined to be attributable to imprudence, AB 1054 explicitly affirms that the Commission may allocate costs 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 at issue.[14] This underscores the importance of the Commission considering relevant external factors outside of a utility's control before disallowing costs in a catastrophic wildfire proceeding. As Governor Newsom's 2019 Strike Force Report recognizes, the costs associated with catastrophic wildfires in California have been exacerbated by many external factors, including climate change, humidity, temperature, winds, drought, forest management practices and others, all of which are significant drivers of a fire's progression, overall burn footprint, and ultimate destructiveness.[15]

B. Liberty Prudently Managed Its System in Relation to the Mountain View Fire

In the years prior to the Mountain View Fire and on the day of the ignition, Liberty's actions and practices were consistent with those "that a reasonable utility would have undertaken in good faith under

---

[11] D.22-06-032 at 8 ("The prudent manager standard is not a standard of perfection."); D.14-06-007 at 36 ("This is not a 'perfection' standard: it is a standard of care that demonstrates all actions were well planned, properly supervised and all necessary records are retained."); D.18-07-025 at 6 (same) (quoting D.14-06-007 at 36); D.17-11-033 at 10 ("[H]olding utilities accountable under the reasonable and prudent manager standard in no way imposes a standard of perfection.").

[12] Cal. Pub. Util. Code § 451.1(b).

[13] *Id.*

[14] *Id.*

[15] Office of Governor Gavin Newsom, *Wildfires and Climate Change: California's Energy Future; A Report from Governor Newsom's Strike Force*, 1-2, 17, 29 (April 12, 2019), https://www.gov.ca.gov/wpcontent/uploads/2019/04/Wildfires-and-Climate-Change-California%E2%80%99s-Energy-Future.pdf ("2019 Strike Force Report").

similar circumstances, at the relevant point in time, and based on the information available" at that time.[16] As described in more detail in *Liberty-02: Ignition*, the possibility that electrical facilities caused the fire cannot be ruled out. Assuming Liberty's facilities were the cause of ignition, the evidence clearly shows that the ignition was not caused by any imprudence by Liberty.

As described in more detail in *Liberty-03: Prudence of Operations*, Liberty took steps to mitigate wildfire risk in the years prior to the Mountain View Fire. Liberty proactively developed its first Fire Prevention Plan in 2012, and later built upon and expanded its wildfire mitigation efforts in its 2019 WMP and subsequent revisions. 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, adopting a PSPS protocol as a mitigation of last resort and expanding its emergency response capabilities. Liberty also had a practice of disabling automatic reclosing during fire season, called "fire mode" or non-reclose settings. Thus, Liberty developed and implemented programs and policies to respond to the changes in wildfire risk seen across the State and to mitigate the risk of wildfires posed by its equipment, calibrated to the specifics of Liberty's service area.

More broadly, Liberty prudently designed and constructed, inspected and maintained, and operated its system. Liberty's programs conformed to regulatory requirements and were consistent with industry practice. Just six months before the fire, Liberty performed an asset survey that included detailed inspections of the Specific Facilities adjacent to the fire origin area, and no safety hazards were identified. The configuration of these facilities increased conductor spacing by placing the center phase conductor on top of the pole, rather than on one side of the cross-arm. Liberty also had robust vegetation management programs in place to reduce the risk of fire from vegetation contact with electrical facilities and was appropriately executing those programs, including with respect to the Specific Facilities.

C. External Factors Including Winds, Fuel, and Climatological Conditions Exacerbated the Damage Caused by the Mountain View Fire

Section 451.1 affirms that "[c]osts and expenses . . . 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*

[16] Cal. Pub. Util. Code § 451.1(b).

exacerbated the costs and expenses, including humidity, temperature, and winds."[17] In *Liberty-04: External Factors*, Liberty addresses certain external factors that exacerbated the size and magnitude of damages caused by the Mountain View Fire, including climate change and strong winds. It is well established that there is a global rise in temperatures, a long-term drying trend, and more variable precipitation extremes. In California, these climatological trends have contributed to fuel build up, increased the frequency of critical fire weather days, and extended the traditional fire season into windier months. Indeed, until the last decade, large November fires were rare in the State, including east of the Sierra Nevada mountains until two ignited on the same day in November 2020. Although forecasts showed no anticipated fire weather on the day of ignition, retrospective analysis shows that observed on-the-ground conditions that developed that day ultimately saw a combination of low humidity and high winds more extreme than all days save one since 1979 in the Walker area. Fuel moisture data also show that the Walker area has become significantly drier over the last four decades, with recent wet seasons punctuated by precipitation extremes. These factors, combined with the absence of recent fire history in the Mountain View Fire's footprint, contributed to the fire's growth, particularly in the critical initial period.

Moreover, weather station data and documentary evidence from the origin area show that the Mountain View Fire was propelled by high winds, which increased substantially a short time after ignition and persisted for the first 12-14 hours of the fire's spread. The fire's rapid progression during this crucial period overpowered suppression efforts; by the time winds began to subside and precipitation fell in the early morning hours of November 18, 2020, virtually all damage resulting from the fire had already occurred. Fire progression modeling shows that the Mountain View Fire would not have spread as rapidly or been as destructive under lower wind conditions, with an estimated $82.8 million—nearly half—of total settlement payments potentially avoided or significantly reduced.

D. Liberty Reasonably Defended Against and Resolved Third-Party Claims

As described in more detail in *Liberty-05: Litigation and Claims Resolution*, roughly 380 individuals and entities filed lawsuits against Liberty following the Mountain View Fire, and Liberty has defended against and reasonably resolved those claims through settlement. Liberty's decision in this regard was informed by California's inverse condemnation doctrine, which exposes investor-owned utilities like Liberty to claims based on purported strict liability for property damage, as well as the risk

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

inherent in litigating dozens of trials.[18] Liberty resolved and settled claims brought by public entities, individual plaintiffs, and subrogation plaintiffs in a manner that reasonably compensated losses resulting from the fire while reducing litigation risk and minimizing costs for Liberty and its customers. By pursuing reasonable settlements, Liberty resolved claims for significantly less than the amounts plaintiffs had demanded, and avoided additional attorneys' fees, expert costs, and interest. These settlements also expedited resolution of the claims.

Liberty has resolved all but three filed claims related to the Mountain View Fire and only a few additional potential claims remain unresolved. This Application and the supporting testimony show good cause to proceed at this time given the ongoing financing costs associated with the WEMA costs and the significance of cost recovery to Liberty's financial health.[19]

E. Liberty Reasonably Financed the WEMA Costs Related to the Mountain View Fire

As described in *Liberty-06: Legal and Financing Costs*, Liberty has reasonably financed and continues to reasonably finance the WEMA costs subject to this Application, pending the Commission's resolution of Liberty's request. Liberty's financing costs were necessary to bridge the period between when Liberty began incurring costs related to the Mountain View Fire and when it could file its cost recovery application. The primary source of financing was a short-term intercompany revolving loan from Liberty's parent company, Liberty Utilities Co., the terms of which were favorable and reasonable, considering Liberty's credit profile. Liberty anticipates establishing a long-term debt facility for continued, low-cost financing of its WEMA costs during the pendency of this Application and until authorized WEMA costs can be fully recovered from customers.

V. Cost Recovery Is in the Public Interest

A. Granting Cost Recovery Supports Liberty's Financial Health, Which Benefits Customers and the State

Granting Liberty's request for recovery of its costs associated with the Mountain View Fire is in the interest of Liberty, its customers, and the State. Electric utilities like Liberty and their customers benefit from a durable, reasonable, and predictable regulatory environment that facilitates recovery of

---

[18] *San Diego Gas & Elec. Co.*, 146 FERC ¶ 63017, at 62 (2014) (finding "rational and prudent" SDG&E's "proactive steps" to settle third-party claims "since they would have been exposed to strict liability" under California's inverse condemnation doctrine).

[19] Cal. Pub. Util. Code § 1701.8(b)(1)(A).

catastrophic wildfire costs when utilities employ prudent policies, systems, and practices. This is the first catastrophic wildfire proceeding subject to AB 1054. In light of Liberty's strong showing, granting cost recovery here will support investor confidence in the constructive regulatory framework in California and broadly promote the public interest.

A bedrock principle of the public utility model is the ability to recover the prudent costs associated with providing public utility service to customers. This is a critical factor for rating agencies' evaluation of the regulatory environment and business risk for a public utility, and a key consideration for investors when deciding whether and on what terms to invest capital. Indeed, access to capital from investors on reasonable terms depends on a utility's ability to recover operating costs and provide a return on and of capital to those investors.

Because of the capital-intensive nature of the utility industry, ready access to capital on reasonable terms is the lifeblood of a public utility. As the Legislature recognized in enacting AB 1054, utilities "need capital to fund ongoing operations and make new investments to promote safety, reliability, and California's clean energy mandates and ratepayers benefit from low utility capital costs in the form of reduced rates."[20] Indeed, Governor Newsom's 2019 Strike Force Report notes:

> 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, and the prospect of additional utility bankruptcy filings, directly impact Californians' access to safe, reliable and affordable electricity.[21]

When investors view California utilities as riskier than other utilities, they will shift investments to other jurisdictions or industries and/or require higher returns, ultimately increasing costs for customers. In fact, the Commission has recognized during periods of financial stress for utilities that credit rating downgrades increase a utility's cost of debt, thereby increasing the utility's cost of capital and resulting

---

[20] AB 1054, Sec. 1(a)(2); *see also id.*, Sec. 1(a)(2) ("With increased risk of catastrophic wildfires, the electrical corporations' exposure to financial liability resulting from wildfires that were caused by utility equipment has created increased costs to ratepayers.").

[21] 2019 Strike Force Report at 3.

in higher rates for its customers.[22] When recently approving an amended settlement agreement providing for recovery of costs associated with the 2017 Thomas Fire by Southern California Edison, for instance, the Commission reiterated that "[a]ccess to low-cost capital is essential for making the necessary investments to enhance safety and to achieve the State's ambitious clean energy goals, to the ultimate benefit of customers, the public, and the State."[23] The Commission also has recognized that "California's long-term climate goals depend on electrification, but electrification that is unaffordable is electrification that won't happen."[24] Thus, utility financial health is essential for customers' access to safe, reliable, clean, and affordable electricity, as it enables California utilities to raise the capital necessary to achieve those goals.

As reflected in Liberty's Test Year 2025 General Rate Case ("GRC"), Liberty anticipates investing approximately $300 million in capital over the 2024-2027 period, including approximately $230 million to support safety and reliability for Liberty's customers, employees, and the public. This includes significant ongoing investments in critical wildfire mitigation measures as well as other safety and reliability investments in its distribution and substation infrastructure, among others. Liberty's ability to fund these critical and substantial investments depends on its ability to access capital at reasonable rates, which in turn depends on Liberty's ability to recover its prudent costs associated with the Mountain View Fire.

The total quantum of costs at issue in this Application is significant for Liberty given its size, and therefore resolution of Liberty's cost recovery request will affect Liberty's overall financial health and condition. Liberty seeks recovery of approximately $78.2 million in WEMA costs related to the Mountain View Fire in this Application. The Commission's most recent GRC decision for Liberty

---

[22] See D.01-03-082 at 10–13; D.20-05-053 at 81, 84 (stressing the need for PG&E to "improve its credit rating and maintain access to capital markets" and noting the importance of utility financial health "both for PG&E and its customers"); *see also* D.12-12-030, at 105 ("[D]rastically reducing return on equity harms the ratepayers in the long run by increasing borrowing costs and potentially diminishing the financial health of the utility.").

[23] D.25-01-042 at 21.

[24] Press Release, California Public Utilities Commission, CPUC Approves PG&E's Reorganization Plan, Requiring Governance and Oversight Changes 2 (May 28, 2020), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M338/K725/338725560.PDF.

authorized a total base revenue requirement of approximately $138 million for Test Year 2022.[25] And at the time of the Mountain View Fire, Liberty's base revenue requirement was significantly less, at around $60 million.[26] In other words, the total costs at issue in this Application are equivalent to a significant proportion of Liberty's current base revenue requirement and exceed Liberty's base revenue requirement at the time of the Mountain View Fire.

In the years since the Mountain View Fire, carrying the WEMA costs on Liberty's balance sheet pending the filing and resolution of this cost recovery request has strained Liberty's credit metrics. For example, a key credit metric used to evaluate public utilities is the ratio of a utility's cash flow from operations to total debt ("CFO/Debt"). Prior to the Mountain View Fire, Liberty's CFO/Debt ratio was consistently above 10% and around 15-25% during the 2013-2018 period. In the time since November 17, 2020, as described above and in *Liberty-05* and *Liberty-06*, Liberty has sought to resolve the civil claims asserted against it related to the fire and financed the costs to settle those claims with debt. Specifically, Liberty has relied on intercompany lending, the terms of which were favorable and reasonable considering Liberty's credit profile. Though it is less expensive and therefore in customers' interest to finance these costs with debt rather than with equity pending resolution of cost recovery, this has had the effect of increasing Liberty's overall debt burden. This, in addition to the lower cash flow from operations, has reduced Liberty's CFO/Debt ratio to around 10%.

Resolution of Liberty's cost recovery request here will have a significant impact on Liberty's future financial condition. A decision authorizing recovery of Liberty's WEMA costs would build on the Commission's decision in A.23-08-013 regarding the 2017 Thomas Fire and send a positive signal regarding the fairness and predictability of California's cost recovery framework. Such a decision also would help restore Liberty's CFO/Debt ratio and support Liberty's overall financial health and ability to continue accessing low-cost capital to fund necessary capital investments in its system to the ultimate benefit of both customers and the State. By contrast, a decision denying Liberty's request would send a negative signal in the first catastrophic wildfire proceeding subject to the new AB 1054 framework, with

---

[25] D.23-04-043 at 2, 30, 45. Liberty's base revenue requirement for 2024 was approximately $160 million. *See* Liberty Advice Letter 251-E at 2 (Oct. 31, 2024), https://california.libertyutilities.com/uploads/CalPeco%20ALs/Liberty%27s%20AL%20251%202024%20BRRBA.pdf.

[26] *See* D.20-08-030 at ; Liberty Advice Letter 158-E-A at 2 (Feb. 1, 2021), https://california.libertyutilities.com/uploads/CalPeco%20ALs/Liberty%20CalPeco%20AL%20158-E-A%20BRRBA%20Supplemental%20(00537532xBA8E1).pdf.

ramifications not just for Liberty but also potentially other California utilities. Denial of cost recovery also would prolong the depression of Liberty's CFO/Debt ratio, require the borrowing of more debt, and likely would lead to a significant downgrade of Liberty's credit rating. That would result in an increase to Liberty's cost of capital—impacting the cost of both Liberty's existing debt and new debt and equity—and ultimately harm customers.

B. The Commission Should Consider California Courts' Application of the Inverse Condemnation Doctrine to Public Utilities

The inverse condemnation doctrine in California is designed to "distribute throughout the community the losses resulting from the public improvement."[27] Therefore, when California courts apply the inverse condemnation doctrine to investor-owned public utilities like Liberty, it is predicated on the assumption that the costs associated with inverse condemnation claims can be recovered in rates and thereby spread among the utility's customer base.[28] While that assumption may hold for publicly-owned or municipal utilities that determine their own rates, the Commission has required rate-regulated public utilities to demonstrate that the costs did not result from imprudence, even for costs associated with inverse condemnation claims. Thus, utilities are exposed to significant liability under inverse condemnation irrespective of any fault and based on the assumption that the resulting costs will be spread through rates, whereas the Commission only permits those costs to be spread upon finding that the costs were prudently incurred.

This divergence—*i.e.*, exposure to strict liability claims, potentially without the ability to recover the costs—has caused financial strain on California utilities and raised concerns by rating agencies and investors about their financial stability.[29] To address this, the Commission should consider the cost-spreading rationale underlying the inverse condemnation doctrine in evaluating Liberty's request and applying Section 451.1 here. That would help support investor confidence in the fairness and

---

[27] *City of Oroville v. Superior Ct.*, 7 Cal.5th 1091, 1103 (2019).

[28] *Pac. Bell v. S. Cal. Edison*, 208 Cal.App.4th 1400, 1407 (2012) ("Edison argues that this loss-spreading rationale does not apply because as a public utility it does not have taxing authority and may raise rates only with the approval of California's Public Utilities Commission. We note that in this case the judgment was for $123,841.95 and that Edison has not pointed to any evidence to support its implication that the commission would not allow Edison adjustments to pass on damages liability during its periodic reviews.").

[29] 2019 Strike Force Report at 30-31.

predictability of the California regulatory environment for utility cost recovery, thereby benefiting utilities, customers, and the State.

VI.

Liberty's Cost Recovery Proposal Supports Customer Affordability

Liberty's cost recovery proposal is set forth in *Liberty-07: Cost Recovery*. Liberty recognizes that the magnitude of the WEMA costs is significant, and could result in rate shock if recovered through the traditional mechanism over twelve months. To that end, Liberty proposes to recover the authorized WEMA costs over a 36-month period through a volumetric surcharge on customer bills via a newly established balancing account. This approach supports affordability by reducing long-term customer costs and accelerating Liberty's financial recovery, thereby supporting access to low-cost capital which will reduce customer costs for critical safety and reliability investments. Liberty's proposal also provides transparency and administrative simplicity. Liberty evaluated the possibility of recovering the WEMA costs through securitization, but determined it is not a preferred option at present. Securitization is generally not considered feasible for financings less than $100 million due to the associated upfront costs, which do not scale linearly with the size of the bonds.