Bond Case Briefs

Municipal Finance Law Since 1971

California Governor Seeks to Protect Utilities From the Cost of Wildfires.

Gov. Gavin Newsom of California said one solution to protect utilities would be for the state to create two funds to pay for the damage caused by wildfires.

With another wildfire season looming, Gov. Gavin Newsom of California on Friday urged the state Legislature to help Pacific Gas & Electric and other utilities bear the cost of fires started by their equipment.

Mr. Newsom's announcement came in response to PG&E's bankruptcy filing in January, which has raised difficult questions about who should pay for the billions of dollars in damage caused by wildfires and how California could reduce the frequency and severity of those fires.

"If we don't begin to try and manifest the ideas in this report, our future is not very bright," Mr. Newsom said after releasing a document that outlined several proposals in general terms without providing many hard details.

Utility equipment has caused many of California's deadliest recent wildfires, but PG&E's bankruptcy shows that these companies may not be able to bear those costs. In PG&E's case, those costs could total an estimated $30 billion for fires in 2018 and 2017. If more utilities have to file for bankruptcy because of such expenses, California may not be able to to meet its ambitious clean energy goals.

One solution, Mr. Newsom said on Friday, would be for the state to create two funds to pay for the damage caused by wildfires. The report issued by his office said these funds could disburse payments to homeowners and businesses who lost property in wildfires more quickly than the utilities could.

But it is unclear whether Mr. Newsom's funds would be large enough to address the problem. The governor did not say how much money the funds should have at their disposal and whether California would back them with taxpayer funds. His report said one fund, referred to as the "liquidity only" fund, could be financed by ratepayers and utility investors. The other pool of money, the wildfire fund, could get capital from California's three main investor-owned utilities, as well as some municipally owned utilities.

But those proposals could face resistance from some lawmakers, consumer groups and victims of wildfires. Some of those groups are likely to oppose legislation that shields the utilities from liability while potentially exposing taxpayers and ratepayers to billions of dollars in costs.

PG&E's stock closed up more than 20 percent on Friday, a sign that investors believe that Mr. Newsom's proposals would protect the investment of its shareholders.

The company welcomed the governor's report in a statement. "We appreciate the important and timely work of the governor's strike force," PG&E said.

Mr. Newsom acknowledged that his plan would require sacrifices, and said they were necessary because wildfires were becoming more common and destructive because of climate change. “We all have a burden and a responsibility to assume the costs,” he said.

The breadth of the plan impressed scholars who work on the financial costs of catastrophes. “They’ve teed up a number of policy options that, with some refinement and development, would be useful,” said Carolyn Kousky, executive director of the Wharton Risk Center. “But I think they need some more details there.”

One of the most contentious parts of the governor’s report says the state should seek to change a California legal provision that holds utilities liable for damages if their equipment causes a wildfire even if the companies did not act negligently. The plan says utilities should be held liable only if they have acted improperly, like not trimming trees or replacing aging equipment. Mr. Newsom said the state could petition the California Supreme Court to seek changes to that provision, which is known as inverse condemnation.

But representatives of ratepayers and wildfire victims say the governor’s proposal could amount to letting utilities off the hook for not maintaining their transmission lines and other equipment.

“If the governor is thinking about petitioning the Supreme Court, it would be nice to develop that policy in town halls where fire victims and ratepayers can speak out,” said Jamie Court, president of Consumer Watchdog.

PG&E’s poor reputation looms over the report. The company is still under court-ordered probation stemming from a 2010 gas explosion in San Bruno, just south of San Francisco. A federal jury convicted the company of violating a pipeline safety law and obstructing an investigation. And PG&E recently said that its equipment probably caused last year’s Camp Fire, California’s deadliest wildfire.

Mr. Newsom’s report included a short section on holding PG&E accountable. There are limits to what the governor can do to the company. The bankruptcy judge overseeing its case has more influence over the company than Mr. Newsom in many ways.

But Mr. Newsom said he had not ruled out taking action against PG&E if it did not improve safety. He said one option was to break up the company and turn parts of it into municipal utilities owned and operated by local governments. Officials in San Francisco are already considering a proposal to take over PG&E’s operations in their city.

Mr. Newsom said he was willing to give the company and its new chief executive and board time to make amends. “We’ve got to give these folks a chance,” he said.

The New York Times

By Peter Eavis

April 12, 2019