



Legislation Text

File #: 2019-0115, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): County Counsel's Office, County Administrator's Office

Staff Name and Phone Number: Cory Wurtzel O'Donnell, 565-2421; Michael Gossman, 565-7056

Vote Requirement: 4/5th

Supervisory District(s): County Wide

Title:

California Public Utilities Commission Proceedings

Recommended Actions:

A). Authorize the County Counsel to execute a legal services agreement with Goodin, MacBride, Squeri & Day, LLP to provide legal advice and representation in California Public Utilities Commission proceedings involving wildfire management and mitigation and related matters up to a not-to-exceed amount of \$150,000.

B). Adopt a resolution authorizing a budgetary adjustment to the 2018-2019 Final Budget to transfer appropriation from General Fund Contingencies in the amount of \$150,000 to the County Administrator Office of Recovery & Resiliency budget for the legal services agreement and \$50,000 to County Counsel budget for related County Counsel services.

(4/5th vote required.)

Executive Summary:

A number of different proceedings are currently pending at the California Public Utilities Commission (CPUC) that are either directly related to the 2017 Sonoma Complex Fires, or pertain to wildfire safety plans and related issues that may impact Sonoma County on a broader level. Several new proceedings on related issues are also anticipated to be opened in the near future. On December 11, 2018, your Board authorized County participation in these proceedings, as appropriate, along with funding for counsel. CPUC proceedings are highly specialized proceedings that require expertise and knowledge, both substantively and procedurally, in matters related to the public utilities industry and laws, CPUC rules and procedures, as well as the stakeholders involved in these proceedings. This item seeks Board authorization to engage Goodin, MacBride, Squeri & Day, LLP ("Goodin, MacBride") to provide legal advice and representation in CPUC proceedings involving wildfire management and mitigation and related matters up to a not-to-exceed amount of \$150,000, as well as \$50,000 funding for County Counsel to oversee and coordinate this work with County staff and partner counties.

Discussion:

Wildfire Related Proceedings

The following proceedings are currently pending, or expected to be opened soon, which involve matters that align with the County's long-term vision for a resilient future as outlined in the Recovery and Resiliency Framework, including some of the County's key projects:

Rulemaking 18-10-1007 (SB 901). This rulemaking on wildfire safety matters was opened in 2018 in response to Senate Bill 901, which requires investor-owned electric utilities to submit annual wildfire mitigation plans. The rulemaking will provide guidance on the form and content of the initial wildfire mitigation plans, provide a venue for review of the initial plans, and develop and refine the content of and process for review and implementation of wildfire mitigation plans to be filed in future years. The County of Sonoma has been granted party status in this proceeding, which allows the County to comment on proposals by the utilities for their wildfire safety plans, and to advocate for specific issues to protect the health and safety of Sonoma County residents, as well as priorities for implementation of those measures in Sonoma County.

Rulemaking 18-12-005 (De-Energization). This rulemaking was opened in December 2018 in addition to Rulemaking 18-10-1007 to specifically address de-energization issues. The rulemaking will examine best practices, notification protocols, utility coordination with state and local first responders, minimizing impact on vulnerable populations, reporting requirements, and other issues related to de-energization of utility power lines. County participation is recommended in this rulemaking to comment on proposals and advocate for specific issues, such as effective communication protocols with local agencies to ensure public safety priorities and to protect the health and well-being of our community, vulnerable populations, medical service providers and first responders who require reliable access to power.

Rulemaking 17-05-010 (Rule 20A Undergrounding). This proceeding was initiated in 2017 to consider whether changes are warranted to "Electric Rule 20A," which governs the system of credits that PG&E must grant to public entities toward the cost of undergrounding electrical utility lines. PG&E's current Rule 20A program does not adequately address the threat of wildfires posed by overhead electrical equipment in its service territory. It requires PG&E to allocate to cities and counties credits based on the number of electrical meters in each area. However, the formula used to determine credits disadvantages rural entities where the risk of wildfires due to above-ground electrical lines is greatest in sparsely populated areas. In addition, the current level of funding associated with the credits allocated to local government entities is minimal compared to the actual costs of undergrounding power lines on a per-mile basis. The County has been granted party status and submitted initial comments to advocate for improvements to the Rule 20A program to better safeguard public interests and mitigate wildfire risks in rural areas.

Application 18-12-009 (PG&E 2020 General Rate Case). PG&E is seeking to increase utility rates beginning in 2020 to cover approximately \$5 billion in costs that PG&E estimates will be incurred from now through 2022 for a proposed Community Wildfire Safety Program. Categories of work/programs relating to wildfire mitigation efforts include (1) enhanced vegetation management (beyond the routine vegetation management PG&E has been doing), (2) system hardening (replacing old and combustible electrical equipment, wood poles, etc.), (3) enhanced operational practices (power shutoff, reclose blocking, increased automation and technology upgrades), (4) enhanced situational awareness (new fire cameras and weather stations, new algorithms and computer modeling, etc.), and (5) other support programs (employee engagement and training, ancillary support services for the above programs, etc.). Participation in this proceeding would provide an opportunity for the County to comment on proposed costs and advocate for infrastructure upgrades and improvements that are priorities for our community.

Other Proceedings. It is expected that the CPUC will likely open a number of other rulemakings and proceedings related to the 2017 and 2018 wildfires that will directly affect wildfire risk in Sonoma County and the distribution of wildfire liability related costs, including a stress-test proceeding to determine financial metrics the CPUC should use to measure a utility's financial status. The legal services agreement with Goodin, MacBride would include legal representation of the County in any of those proceedings up to the not-to-exceed amount of \$150,000. One exception might be the issuance of an "Order Instituting Investigation" from the Safety Enforcement Division, which would start a formal administrative process to conduct a thorough and comprehensive analysis of the causes of the fires in Sonoma County and PG&E's involvement.

Participation in that investigation would likely surpass the current not-to-exceed amount, and additional authority and funding may be requested at the appropriate time.

Outside Legal Counsel Services

CPUC proceedings are highly specialized proceedings that require expertise and knowledge, both substantively and procedurally, in matters related to the public utilities industry and laws, CPUC rules and procedures, as well as the stakeholders involved in these proceedings. County Counsel, in partnership with Napa and Mendocino County Counsel, has consulted with several law firms and received proposals for legal representation. The law firm of Goodin, MacBride was determined to be the best candidate to represent the County based on the qualifications, specialized expertise and reasonable cost estimates. On December 12, 2018, County Counsel entered into a legal services agreement with the Goodin, MacBride firm under the County Counsel's delegated authority. This item seeks Board authorization to amend the agreement for up to a not-to-exceed amount of \$150,000 to allow the County to participate in the CPUC proceedings, as appropriate. This amount would also cover potential expert assistance, where appropriate.

Napa County and Mendocino County also retained Goodin, MacBride allowing the counties to share cost for legal services on matters of joint interest. Under the proposed amended legal services agreement, Sonoma County's share of costs will not exceed 37.5%. There is also the possibility that other public entities would participate and further lower Sonoma County's share.

County Counsel Legal Support

In addition, County Counsel time is needed to help represent the County's interests and insure adequate control and oversight in any legal representation of the County in CPUC proceedings. It is estimated that for FY 18-19 approximately 200 hours of additional County Counsel time may be needed to manage the legal services contract, serve as liaison for outside counsel, and take a lead role internally in supporting the proceedings through information gathering and coordination amongst various County departments. This would require an allocation of approximately \$50,000 for County Counsel time in FY 18-19.

Prior Board Actions:

December 11, 2018: Board authorized County participation in California Public Utilities Commission wildfire related proceedings, as appropriate, as well as funding for outside counsel and County Counsel.

FISCAL SUMMARY

Expenditures	FY 18-19 Adopted	FY19-20 Projected	FY 20-21 Projected
Budgeted Expenses			
Additional Appropriation Requested	200,000		
Total Expenditures	200,000		
Funding Sources			
General Fund/WA GF			

State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies	200,000		
Total Sources	200,000		

Narrative Explanation of Fiscal Impacts:

\$150,000 would be allocated for the legal services agreement with Goodin, MacBride, Squeri & Day, LLP. \$50,000 would be allocated for County Counsel services. The request for General Fund Contingencies conforms with the Board's Use of General Fund Contingencies Policy which states that any decision to use Contingencies should only occur at the Board's annual budget hearing, and during mid-year budget updates.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A - I Step)	Additions (number)	Deletions (number)

Narrative Explanation of Staffing Impacts (If Required):**Attachments:**

Resolution adjusting FY 2018-2019 Budget; Legal Services Agreement; First Amendment to Legal Services Agreement.

Related Items "On File" with the Clerk of the Board:

None