



## Legislation Text

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**File #:** 2021-0981, **Version:** 1

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**To:** Board of Supervisors

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

**Staff Name and Phone Number:** Petra Bruggisser, (707) 565-2421

**Vote Requirement:** 4/5th

**Supervisory District(s):** Countywide

**Title:**

Legal Services Agreement with Megan Somogyi at Downey Brand LLP

**Recommended Action:**

Authorize County Counsel to execute a two-year legal services agreement and a joint representation agreement with Megan Somogyi at Downey Brand LLP to provide legal advice and representation in California Public Utilities Commission proceedings up to a not-to-exceed amount of \$150,000. (4/5<sup>th</sup> Vote Required)

**Executive Summary:**

Following the devastating wildfires in 2017 and 2018, the Board authorized the County of Sonoma to participate in proceedings at the California Public Utilities Commission (CPUC) involving a variety of issues related to wildfire mitigation, power shutoff, microgrid and other related matters. Due to the highly specialized nature of these proceedings, the Board authorized the retention of legal counsel Megan Somogyi in December 2018, who has the required expertise and knowledge, both substantively and procedurally, in matters related to the public utilities industry and laws, as well as CPUC rules and procedures. Ms. Somogyi has been representing the County's interests in a dozen different CPUC proceedings since then, and the County has been extremely satisfied with Ms. Somogyi's professionalism, efficiency, expertise and knowledge.

Ms. Somogyi is transitioning her current legal practice from the law firm of Goodin, MacBride, Squeri & Day LLP to the law firm of Downey Brand LLP. Her current legal services agreement with the County needs to be transferred to the new law firm. County Counsel and staff recommend a new two-year agreement for specialized legal services to continue the County's advocacy at the CPUC in order to protect our communities and local governments. The Board is requested to authorize County Counsel to execute a two-year legal services agreement and a joint representation agreement with Megan Somogyi at Downey Brand LLP to continue to provide legal advice and representation in CPUC proceedings up to a not-to-exceed amount of \$150,000, and to approve funding for County Counsel to oversee and coordinate the legal services with County staff and partner counties in the amount of \$ 50,000.

**Discussion:**

CPUC Proceedings

As part of the County's ongoing efforts to advocate for the needs of our community to be better prepared and more resilient to disasters, the County has initiated participation in a number of regulatory proceedings at the CPUC. Specifically, the County is requesting the adoption by the CPUC of a wide variety of quantifiable measures to ensure the effectiveness of proposed steps and action items by electric utilities to:

- reduce the risks of wildfires,
- reduce the impacts of power shutoff events,
- advocate for carbon eliminating microgrid technology,
- improve communication protocols to ensure public safety priorities,
- restructure existing underground criteria, and
- enhance the health, safety and well-being of our community, vulnerable populations, medical service providers and first responders.

To maximize impact, the County has partnered with other local governments and formed a strong coalition of counties and cities to voice concerns and propose solutions on these issues, including our neighboring partners in Napa, Mendocino, Marin, and the City of Santa Rosa. Megan Somogyi is the joint legal counsel for all of these local governments which have pooled their resources together to share the cost for legal services on these matters of joint interest.

The County is currently participating in the following proceedings, which are outlined in detail in [Attachment A](#). Your Board received a comprehensive informational update on our participation in these proceedings on December 8, 2020, and a specific update on de-energization matters as part of the County's Public Safety Power Shutoff Annex on July 20, 2021.

- [Rulemaking 18-10-1007](#) (SB 901 - Wildfire Mitigation Plan)  
This rulemaking was opened in response to Senate Bill 901, which requires investor-owned electric utilities to submit annual wildfire mitigation plans.
- [Rulemaking 18-12-005](#) (De-Energization)  
This rulemaking specifically addresses PSPS issues.
- [Rulemaking 17-05-010](#) (Rule 20A Undergrounding)  
This proceeding considers "Electric Rule 20.A," which governs the credit system that PG&E must grant to public entities toward the cost of undergrounding electrical lines.
- [Application 18-12-009](#) (PG&E 2020 General Rate Case)  
PG&E filed its 2020 general rate case to increase utility rates to cover for its proposed Community Wildfire Safety Program through 2022.
- [Rulemaking 19-01-006](#) (Financial Stress Test)  
This proceeding was opened to implement Public Utilities Code § 451.2(b), to cap utility shareholder liability for wildfire-related costs, also referred to as the "stress test."
- [Investigation 19-06-015](#) (2017 Sonoma County wildfires)  
This investigation was opened to determine whether PG&E violated any laws, rules or requirements pertaining to the maintenance and operation of its electric facilities that were involved in igniting the 2017 fires.
- [Investigation 19-11-013](#) (2019 PSPS Events)  
This investigation reviews the widespread power shutdowns in the Fall of 2019, including the impacts of ineffective notification and communication.
- [Investigation 19-09-016](#) (PG&E's Chapter 11 Bankruptcy)  
This Investigation was opened to consider ratemaking and other implications of PG&E's proposed reorganization as the utility emerges from Chapter 11 bankruptcy.
- [Rulemaking 19-09-009](#) (Microgrids and Resiliency Strategies)  
This Rulemaking explores ways to optimize the existing resiliency programs, revamp the

- utilities' interconnection tariffs, and provide near-term mitigation for PSPS events.
- Rulemaking 18-03-11 (Emergency Disaster Relief Program)  
This Rulemaking considers a wide variety of potential rules requiring energy, telecommunication and water utilities to take consumer protection measures, including continuity of telecommunications services before, during, and after disasters.
- Application 21-06-022 (Microgrids)  
PG&E filed this application for substation microgrid solutions to mitigate PSPS impacts. The Board obtained party status in this proceeding to advocate for the Board's strategic goal on climate action and resiliency, which includes carbon eliminating microgrid technology and energy grid resiliency to reduce the impact of power loss during power shutdowns and natural disasters.

The level of the County's participation in these proceedings varies greatly and ranges from simply monitoring some proceedings, submitting limited comments in others, and to fully participating in the most relevant proceedings (i.e., the PSPS rulemaking, with more than a dozen of filings, workshops, testimony and in-person meetings with Commissioners and staff). The County's legal counsel, Megan Somogyi, has been instrumental in navigating these complex proceedings and coordinating responses amongst local government partners, the California State Association of Counties (CSAC), Rural County Representatives of California (RCRC), legislative staff, and other stakeholders.

The County's advocacy has successfully led to the adoption of many recommendations by the CPUC, which are also detailed in Attachment A. Most notably, it has helped to establish critical communication and information sharing mandates before, during and after disasters, as well as measures for our local communities to enhance wildfire mitigation, infrastructure hardening and, most recently, mandates for PG&E to develop a tree removal program as part of its post-fire system restoration. While our efforts have led to important improvements, continued work is needed to develop solutions to increase the health and resilience of social, natural, and built resources to withstand the impacts of climate change, local disaster and emergencies.

To that end, the County will continue its advocacy efforts on all fronts to help move the County forward into a more resilient future, including active participation in the PSPS rulemaking, wildfire mitigation, and microgrid and undergrounding rulemaking to ensure that regulatory decisions consider the needs of local governments. In addition, the County continues to work with its partners and local stakeholders to develop and coordinate a response to electric infrastructure and power reliability needs in a sustainable way as part of its climate change framework. To further these goals, the assistance of specialized legal counsel at the regulatory level is essential and highly recommended.

#### Legal Services Agreement

CPUC proceedings require substantive and procedural expertise and knowledge in matters related to the public utilities industry and laws, as well as CPUC rules and procedures.

When the County first considered participation in CPUC matters in December 2018, County Counsel, in partnership with Napa and Mendocino County Counsel, consulted with several law firms and received proposals for legal representation. At the time, Megan Somogyi 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 an initial legal services agreement with Megan Somogyi, and

the Board subsequently approved additional agreements in February 2019, and most recently in May 2020. The current two-year legal services agreement was approved on May 19, 2020, for a not-to-exceed amount of \$150,000. Due to the diligence and efficiency of legal counsel, as well as the cost sharing with our local government partners, Ms. Somogyi has so far expended only half of the approved budget for her legal fees and costs under the current contract, leaving roughly \$75,000 still available for the current fiscal year.

Ms. Somogyi is transitioning her legal practice from the law firm of Goodin, MacBride to another law firm: Downey Brand LLP. In order to keep representing Sonoma County's interests in CPUC related matters, the County needs to execute a new legal services agreement with Ms. Somogyi at Downey Brand LLP.

County Counsel and staff continue to be impressed by the professionalism, efficacy, and advocacy skills of Megan Somogyi. She is an invaluable member of the County's legal team on all CPUC and regulatory matters, and it is recommended to enter into a legal services agreement with Megan Somogyi at Downey Brand LLP for a not-to-exceed amount of \$150,000. The term of the contract would be for two years to allow the County continued and long-term advocacy for wildfire and power shutoff resiliency, system hardening, climate action, and other related matters that are of vital importance for our communities. Sufficient funds are still available under the existing funds for CPUC legal representation, and no budget adjustment is needed for the new contract in FY 21/22. Counsel and staff also recommend authorizing County Counsel to execute a joint representation agreement with our local governments partners to continue our joint representation at the CPUC in connection with the new Downey Brand LLP agreement.

The County will continue to work on partnerships with other local governments to share the costs for legal services on matters of joint interest. Depending on the proceeding, level of participation and number of coalition members, the cost share for the County could drop to 50%, or even as little as 10% per proceeding.

#### 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 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.

#### **Prior Board Actions:**

December 11, 2018: Board authorized County participation in California Public Utilities Commission wildfire related proceedings

February 26, 2019: Board authorized funding for outside counsel Megan Somogyi to provide legal advice and representation in CPUC proceedings 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

April 2, 2019: Board received an informational update on the County's participation in CPUC proceedings

April 7, 2020: Board received an informational update on the County's participation in CPUC proceedings

May 19, 2020: Board authorized a two-year extension of the legal services agreement with Megan Somogyi for a not-to-exceed amount of \$150,000

December 8, 2020: Board received an informational update on the County's participation in CPUC proceedings

July 20, 2021: Board received an informational update specifically on PSPS matters

## FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses	\$75,000	\$75,000	
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>\$75,000</b>	<b>\$75,000</b>	
Funding Sources			
General Fund/WA GF	\$75,000	\$75,000	
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>\$75,000</b>	<b>\$75,000</b>	

### Narrative Explanation of Fiscal Impacts:

\$150,000 would be allocated for the legal services agreement with Megan Somogyi at Downey Brand LLP, and \$50,000 would be allocated for County Counsel services, split evenly for FY 21/22 and FY 22/23.

There are sufficient appropriations in the County Administrator's budget to fund the legal services agreement in FY 21/22. Funding for FY 22/23 will be requested as part of the recommended budget.

The cost for County Counsel to oversee the legal services agreement will be funded by the Litigation Contingency Fund.

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

### Narrative Explanation of Staffing Impacts (If Required):

None

### Attachments:

Exhibit A - Summary of California Public Utility Commission Proceedings

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

Legal Services Agreements - on File