May 4, 2026

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

Assemblymember Cottie Petrie-Norris, Chair
Assembly Utilities and Energy Committee
1021 O Street, Suite 8120
Sacramento, CA 95814

Senator Benjamin Allen, Chair
Senate Energy, Utilities, and Communications Committee
1021 O Street, Suite 7610
Sacramento, CA 95814

Dear Governor Newsom, Senator Allen, and Assemblymember Petrie-Norris:

Subject: SB 254– LADWP Priority to Strengthen California's Catastrophe Resiliency

The California Earthquake Authority's (CEA) SB 254 Study Report rightly recognizes that catastrophic wildfire risk presents a society-wide problem that urgently needs to be addressed. Importantly, the CEA clearly states that a status-quo approach will come at such a significant cost to the state that none of the proposed pathways include the option to simply fail to act. In short, the time is now to enact meaningful change as failing to do so is much more costly.

Unfortunately, the CEA report did not adequately recognize the **compounded vulnerability** that communities served by municipal power and water utilities face. Because legal risk, credit risk, and ultimately the fiscal health of both municipal utilities and the cities that own them are linked and interdependent, the financial stress that wildfire liability places on utilities also carries over and creates financial stress for the cities they serve. After a severe wildfire, when support is most needed, Californians residing in such cities are exposed to both rising utility rates and risk of either more costly or more limited essential City services, including emergency response, hazardous debris removal, road and infrastructure repairs, and critical social services. In an

extreme scenario, wildfire liability placed on a municipal utility could actually bankrupt the city itself.

For the over four million Californian's that LADWP serves, this outcome would be devastating, and the risk must be explicitly addressed. It is within this context that we provide the following priorities and recommendations.

Objectives of Reform and Policy Priorities

The current framework for allocating wildfire liability exposure is unsustainable and shifts costs to the most vulnerable Californians in a regressive manner. Reform is needed to address:

- **Affordability:** Absent action, customer bills could increase to unacceptable levels as inverse-condemnation driven liabilities, materially higher insurance costs, and higher financing costs are placed on utility customers – disproportionately impacting low-income customers and disadvantaged communities.
- **Financial Stability:** Absent action, this exposure could continue to adversely impact credit quality, access to capital, and the long-term financial stability of the City of Los Angeles and LADWP.
- **Infrastructure Investment:** Absent action, emergency borrowing and liability costs will displace investments in reliability, resiliency, and clean energy.

Reform should focus on structures that most directly improve liability certainty and cost containment for utility customers while enabling just, effective, and timely victim recovery. In accordance, LADWP outlines its proposed pathways below (see also the diagram in Appendix A).

PATHWAY 1 - Eliminate Inverse Condemnation

The first pathway is eliminating the availability of inverse condemnation against utilities. This is the most direct and durable solution because it addresses the core legal doctrine that plaintiffs' lawyers are employing to seek uncapped liability regardless of

fault. To be effective, this pathway should also define fault and establish a reasonable standard of care so that liabilities are tied to utility conduct rather than imposed automatically. Reforming this doctrine (*Option 2.2.1*) is the clearest structural driver of reducing uncapped exposure and aligning liability with a negligence standard. Inverse condemnation reform should be paired with transparent standards of care tied to mitigation and vegetation-management plans and accountability measures that preserve safety incentives and reduce litigation uncertainty (e.g., a risk-tolerance standard (Option 1.3.1)).

This shift would materially improve both utility financeability and municipal financial health. Uncapped strict-liability exposure is difficult to insure, difficult to model, and difficult for capital markets to price. It can increase borrowing costs (for both municipal utilities and the cities that own them), impair access to capital, and force utilities to preserve liquidity for contingent liabilities rather than deploy capital toward reliability, resiliency, clean energy, wildfire mitigation, water infrastructure, and other essential public services. As the state evolves its catastrophe resiliency, further liability reforms may be needed to reduce litigation incentives and litigation risk, but action now to eliminate inverse condemnation would be most effective.

PATHWAY 2 – Integrated Contingency Package

The second pathway, if inverse condemnation reform cannot be achieved, should be structured as an integrated, three-pronged solution: (i) establishing a liability cap through a state-administered utility wildfire liability insurance program and state-backstop with non-regressive funding mechanism, (ii) adopting targeted damages reform and reforming subrogation, and (iii) increasing customer access to residential property insurance through a state-supported residential insurance concept. Each prong or pillar of this solution would depend on enactment of all three to be effective.

Pillar One: Establish a Liability Cap via a State-Sponsored Insurance Framework

The CEA Report proposed establishing a liability cap within a State-Administered Wildfire Liability Insurance Program for Electric Utilities (Option 3.1.1). Under this structure, the State would administer a wildfire-liability insurance program for electric utilities, providing the most holistic solution for addressing unsustainable catastrophe tail risk. While a State-Backstop for Electric Utility Wildfire Liability with a Residual Utility Self-Insurance Pool (Option 3.1.2) would provide a backstop above a defined loss threshold, it would require establishing a residual utility pool that more greatly exposes one utility's customers to the liabilities, risk profile, or operational decisions of another utility. Given the diverse priorities and varying capacities between large and small private and municipal utilities, Option 3.1.2 would necessarily bring additional complexity.

Other states have already provided useful examples of how state-created insurance mechanisms can stabilize access when private insurance markets become constrained (see Florida example below).

Pillar Two: Adopt Targeted Damages Reform and Address Subrogation

The second pillar should adopt targeted damages reform (*Option 2.2.2*), which can reduce the severity and volatility of claims while preserving strong incentives for safety and mitigation. The CEA Report discusses modifications to categories of damages recoverable from utilities outside inverse condemnation, including potential limits on punitive damages and tailoring of specific damage components (for example, additional living expenses, time horizons and certain non-economic damage components, vegetation replacement costs, and litigation costs).

From a utility perspective, targeted damages reform should be designed to: (i) maintain fair and timely compensation for survivors, (ii) reduce volatility that drives credit and

liquidity stress, and (iii) work in concert with a tail-risk insurance layer / backstop so residual risk is financeable.

Reforming insurance subrogation (*Option 2.3.3*) would also provide an additional and meaningful tool for reducing utility wildfire liability while providing a market for sophisticated parties to price risk. In major wildfire events, insurer subrogation can represent a substantial portion of utility liability exposure and can concentrate claims in sophisticated institutional claimants rather than individual survivors. The CEA Report states that insurance subrogation payments represent the largest single source of utility wildfire liability and Wildfire Fund payments and estimates that removing insurer subrogation could reduce total wildfire-settlement costs by roughly 35% to 40%. While the elimination of subrogation claims would reduce overall liability exposure most immediately, other potential options to consider include a phased in limitation on subrogation recovery and limitations on subrogation claims trading to align victim recovery, thus allowing for the insurance market to adjust to and price such modifications.

Subrogation reform would reduce legal costs, reduce utility tail-risk exposure, lower the required size of any utility insurance or backstop facility, and moderate costs ultimately borne by utility ratepayers. It may also be less regressive than placing wildfire costs solely on electric bills, because insurance premiums can be more directly risk-based than utility rates.

Pillar Three: Increase Customer Access to Insurance Through a State-Supported Residential Insurance Concept

The third pillar should improve customer access to residential property insurance and preserve adequate access to insurance for customers and help them avoid under-insurance. If customers lack adequate first-party insurance, post-disaster recovery will

default back to litigation, subrogation, and other delayed recovery channels that increase pressure on utilities, ratepayers, and survivors.

A state-supported residential insurance concept could include a state-backed catastrophe reinsurance layer for the residential property insurance market (Option 3.1.1), a state-sponsored wildfire insurer, or a comparable structure designed to fill protection gaps while the insurance market stabilizes. The success of Citizens Property Insurance Corporation in Florida provides an example of how a state-led insurance framework can provide a long-term solution. For example, Florida's Citizens Property Insurance Corporation was created by the Florida Legislature in 2002 to provide property insurance to eligible property owners unable to find coverage in the private market in the wake of major storms. Its depopulation model demonstrates that a state-created insurance framework can provide stability to the private market and improve overall access to insurance.

A state-run wildfire insurance program also broadens potential funding sources to help fund victim recovery and more effectively allocates the burden of wildfire liabilities across the state, rather than to individuals in a particular utility's service territory following an event.

Moreover, if subrogation reform is achieved, the property insurance market must remain functional, and survivors must still have a credible recovery pathway. Measures that strengthen the Sustainable Insurance Strategy (Option 2.1.1) and tighten the link between risk reduction and insurance (Option 1.2.2) help preserve that balance and allow the private insurance market to function for customers.

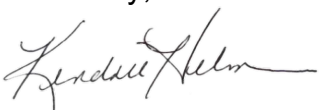
Where market reforms are insufficient in the near term, a state role (such as state-backed catastrophe reinsurance for the residential property market (Option 3.1.3) and/or a state-sponsored wildfire insurer (Option 3.1.4)) may be needed as a bridge while the insurance market adopts to the reformed market.

End Note: Proposed fund-only constructs and mitigation investments should support—not substitute for—liability reform.

Fund-only constructs do not present meaningful change unless they are paired with liability reform, explicit POU inclusion, diversified funding, and a reliable replenishment mechanism (SB 254 Options 2.4.1, 2.4.2, and 2.4.3). For POUs, LADWP's core concern is avoiding designs that effectively concentrate funding on municipal ratepayers and taxpayers (who are often the same households) or that inadvertently subsidize private insurance structures or investor-owned utility shareholders. Any durable fund or backstop should strengthen credit quality and capital market access, not create an additional regressive financing layer.

Long-term mitigation and resiliency investments (Option 3.2.1) remain essential, but they should be viewed as a parallel risk-reduction agenda rather than a substitute for near-term liability and catastrophe-financing reform. Their benefits accrue over time, whereas the capital markets consequences of catastrophic liability are immediate. For that reason, the highest financial priority should be to reduce the current liability overhang now, while continuing to invest in mitigation that improves the long-run risk profile.

Sincerely,



Kendall Helm, Ph.D.
Chief Strategy and Sustainability Officer

KH:fv:sk

cc: Assemblymember Rhodesia Ransom, Chair
Assembly Emergency Management Committee

Assembly Member Isaac G. Bryan, Chair
Assembly Natural Resources Committee

Assembly Member Isaac G. Bryan, Chair
Assembly Natural Resources Committee

Assembly Member Lisa Calderon, Chair
Assembly Insurance Committee

Assembly Member Ash Kalra, Chair
Assembly Judiciary Committee

Senator Henry Stern, Chair
Senate Emergency Management Committee

Senator Josh Becker, Chair
Senate Natural Resources and Water Committee

Senator Steve Padilla, Chair
Senate Insurance Committee

Senator Thomas Umberg, Chair
Senate Judiciary Committee

Appendix A

Addressing Utility Liability Reform

Addressing Utility Liability Reform and Catastrophe Financing Requires a Comprehensive Solution

Pathway One

Eliminate Inverse Condemnation

- **Description:** Move wildfire property claims to a fault-based standard
- **Benefit:** Reduce automatic utility and ratepayer exposure- Preserve recovery through negligence claims

Pathway Two

Integrated Contingency Package — Each Pillar Reinforces The Others

Liability Cap / Backstop

- **Preferred Approach:** State-administered utility liability program
- **Alternative Approach:** Backstop with POU protections
- **Benefit:** Cut off catastrophe tail risk

Targeted Damages Reform and Modification to Subrogation

- **Description:** Tailor recoverable damages to reduce claim severity and volatility
- **Benefit:** Preserve fair compensation, safety incentives, and accountability for utility wildfire mitigation

Increase Customer Access Through a State-Supported Residential Insurance Concept

- **Description:** State-supported residential insurance or reinsurance concept to preserve a credible first-party recovery pathway
- **Benefit:** Reduce reliance on litigation and avoid shifting wildfire recovery costs solely to utility ratepayers

Key Goals: (i) Affordability, (ii) Infrastructure Investment, and (iii) Financial Stability