

Suit seeks commission's head correspondence behind AB 1054

4-5 minutes

A San Diego lawyer, who has regularly challenged state agencies in the last few months over a controversial wildfire fund, is now targeting the state Public Utilities Commission president seeking to uncover paper trails that birthed the bill.

Michael J. Aguirre of Aguirre Severson LLP has sued the California Government Operations Agency for any and all records of communication former executive officer Marybel Batjer had with utilities in her capacity as a member of Gov. Gavin Newsom's wildfire strike force, and now as commission president, during the enactment of Assembly Bill 1054. *Michael J. Aguirre v. California Government Operations Agency, et al.*, CGC19580685 (S.F. Super. Ct., filed Nov. 8, 2019).

Batjer's communications with utilities while on the task force will reveal whether, as commission president, she will allow the companies to use AB 1054 as a shield from the consequences of their safety-related mismanagement, Aguirre wrote in the filing. The defendant state agency has delayed producing requested documents for weeks, Aguirre's petition claims.

Batjer, who was appointed commission president July 12, the same day AB 1054 was signed into law, was part of the strike force team that decided to force customers to contribute to the wildfire fund, Aguirre's petition states.

"We're also looking for records that showed that everyone decided ahead of time to make customers pay for the \$13.5 billion that they're being charged through the non-bypassable charge to fund AB 1054," Aguirre said Monday.

"It shows that customers' constitutional rights are being grossly violated, and there's a collapse in separation of power between the governor, Legislature and now the CPUC," said Aguirre. "That's not how the system is designed. They all have to be acting in different capacities and power structures."

In a statement Monday, Lynda Gledhill, deputy secretary of communications for the state agency, said there would be no comment on the pending litigation.

Aguirre has an extensive history of representing ratepayers in litigation against utilities, from the 2010 San Bruno pipeline rupture to the San Onofre nuclear plant decommissioning process, and more recently San Diego Gas & Electric's unsuccessful writ to the U.S. Supreme Court seeking to socialize the uninsured \$379 million of liabilities stemming from a trio of 2007 wildfires.

Since the enactment of AB 1054 in July, Aguirre, one of the biggest critics of the bill, has been pursuing legal action against multiple state officials who were involved in its drafting process -- from the state's Department of Water Resources, Department of Finance to the governor.

Aguirre has sought any and all written communications between state officials, whom he alleges schemed with utilities to bail them out and plotted to make customers shoulder wildfire liabilities while not actually trying to stop fires from occurring in the first place.

AB 1054 was passed in response to credit rating downgrades of utilities Pacific Gas & Electric Co., Southern California Edison and San Diego Gas & Electric Co, all of which were facing wildfire claims according to the Public Utilities Commission. The bill also weakened the legal burden of the prudent manager standard, whereby utilities could pass on liabilities to customers, according to Aguirre. Previously, utilities were required to prove they safely managed their infrastructure at the time of a wildfire caused by their equipment.

The bill established the \$21.5 billion fund to help relieve utilities from future wildfire liabilities, which would transfer onto ratepayers. Customers would contribute up to \$10.5 billion plus interest, which would be matched by contributions from utility shareholders, according to the utilities commission.

Aguirre first sued the state in federal court in San Francisco on July 19, claiming AB 1054 was passed without evidentiary hearings and was rushed to be approved by the commission in violation of its own rules and safety procedures.