




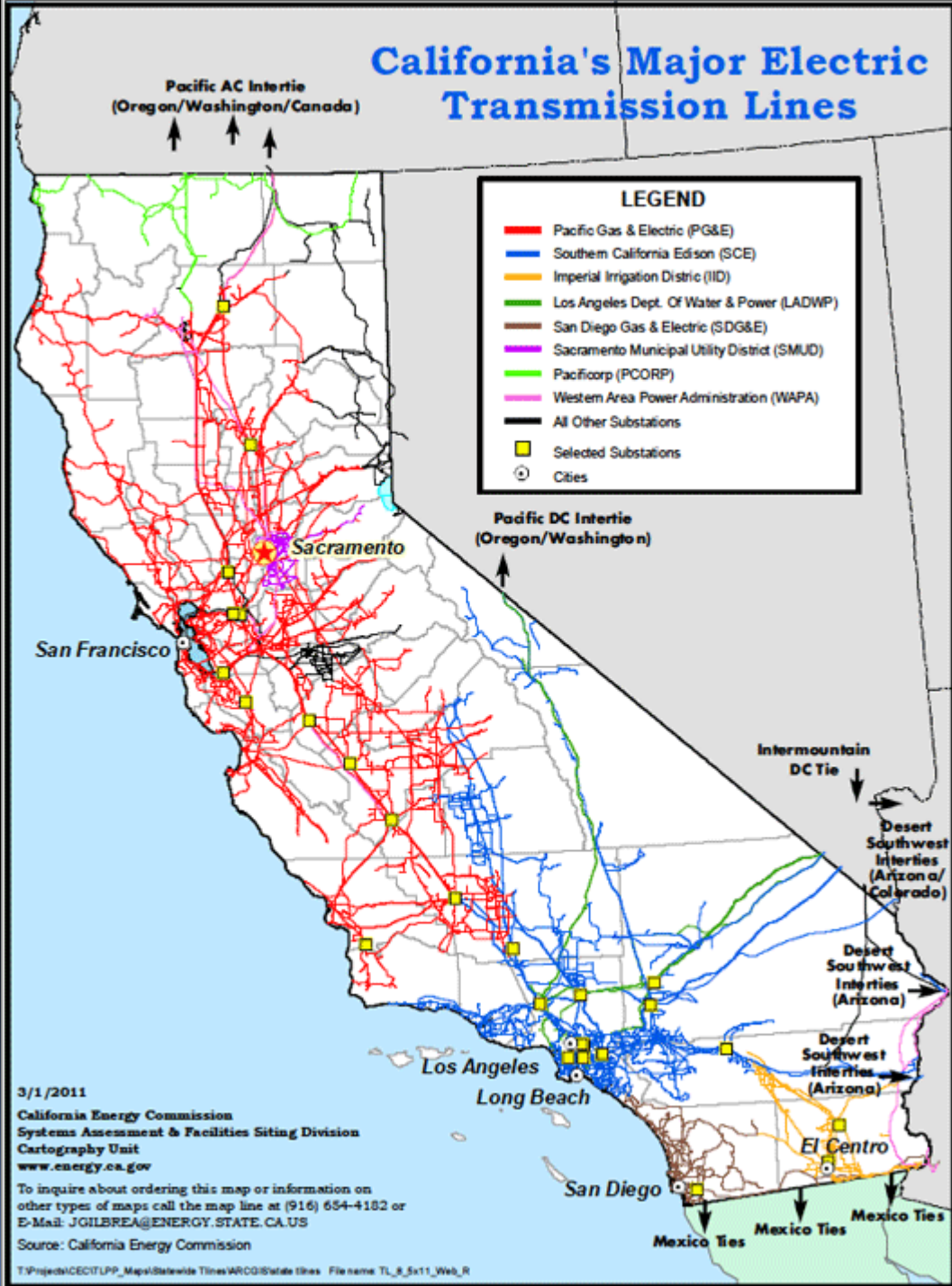
Berkeley Law
November 8, 2019

TAMING OUR WILDFIRE CULTURE



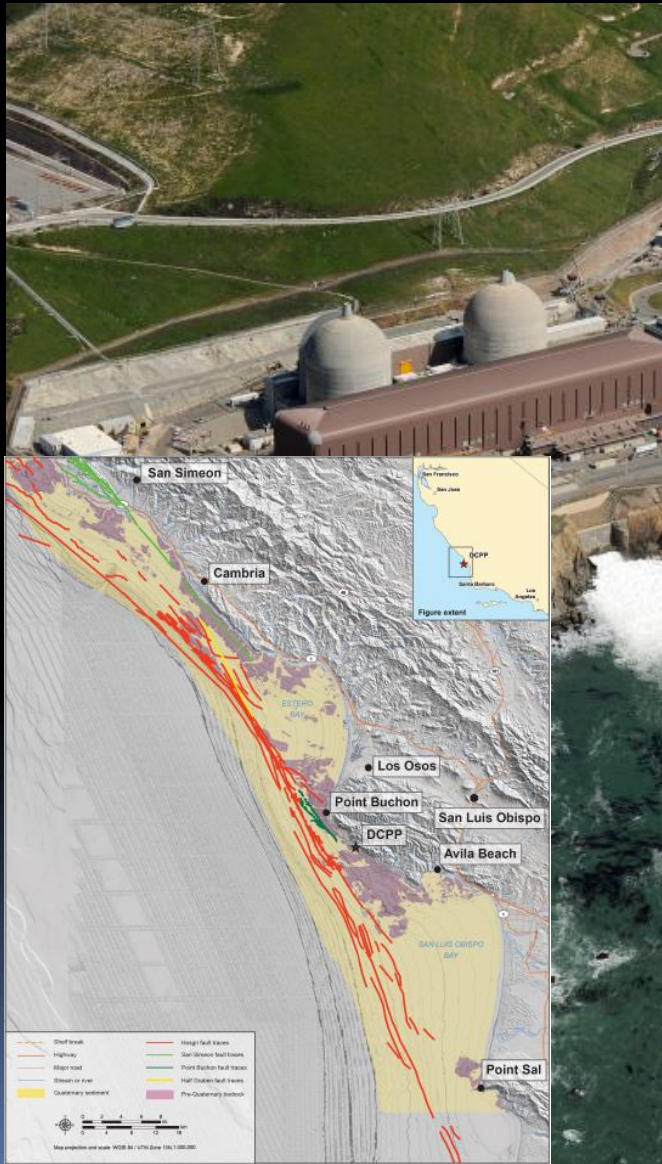
Steve Weissman
Lecturer, Goldman School of Public Policy
Senior Policy Advisor at the Center for Sustainable Energy
Former Director of the Energy Program at Berkeley Law

California's Major Electric Transmission Lines





But earlier.....



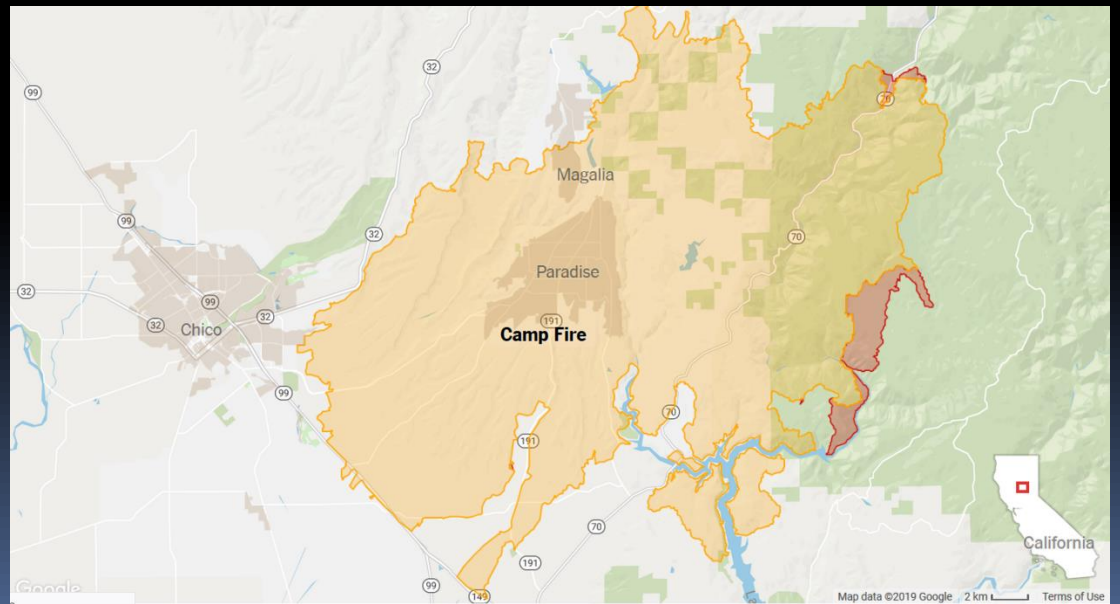
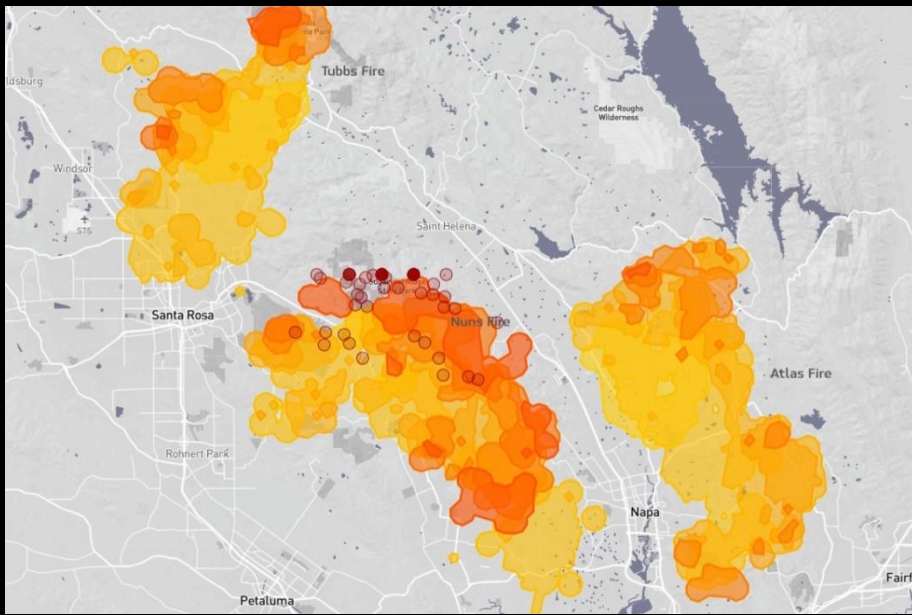
And then.....



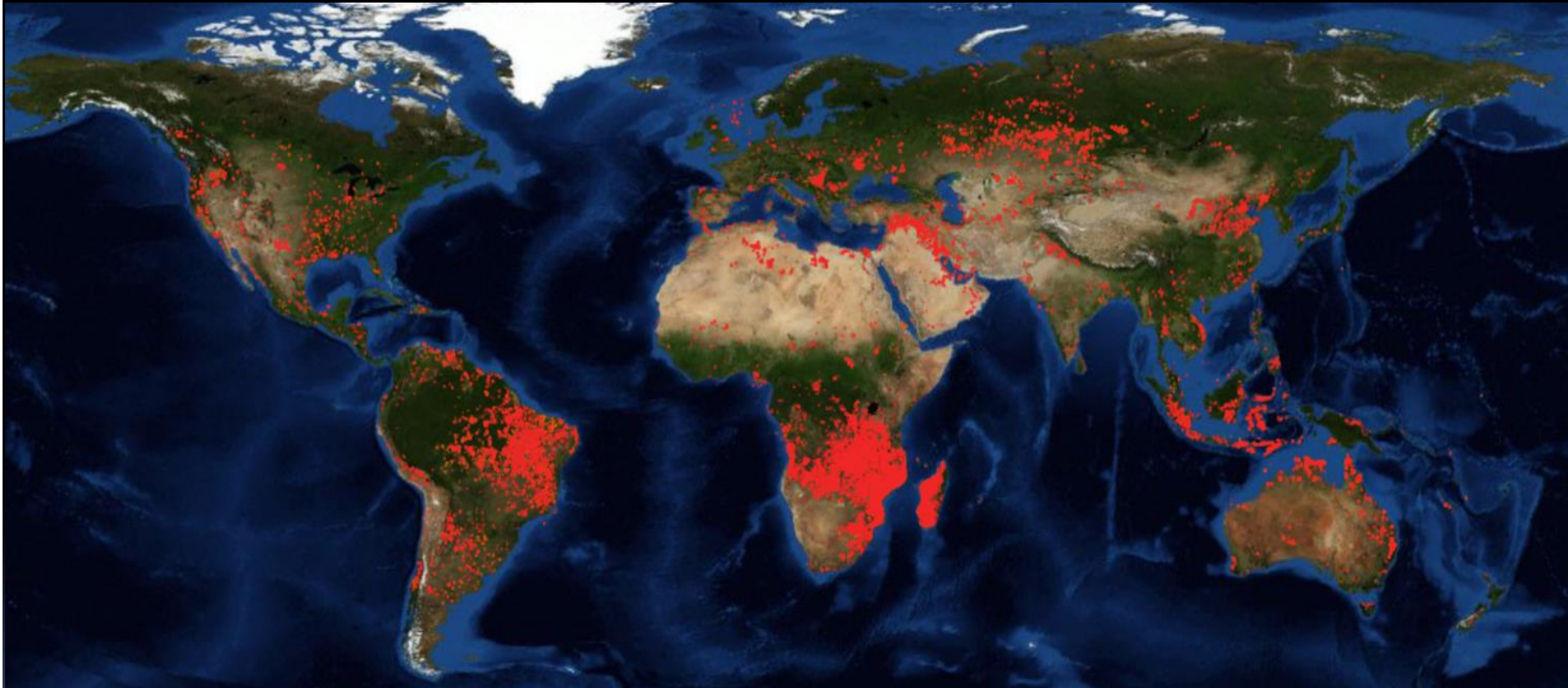
Noah Berger / Special to The Chronicle

And then.....





Global Wildfires, October 10, 2019



NASA Firms

Fires will get worse in California, according to projections from an ensemble of climate models. The Mendocino, Carr, and Camp Fires were all in areas projected to have the largest increased probability

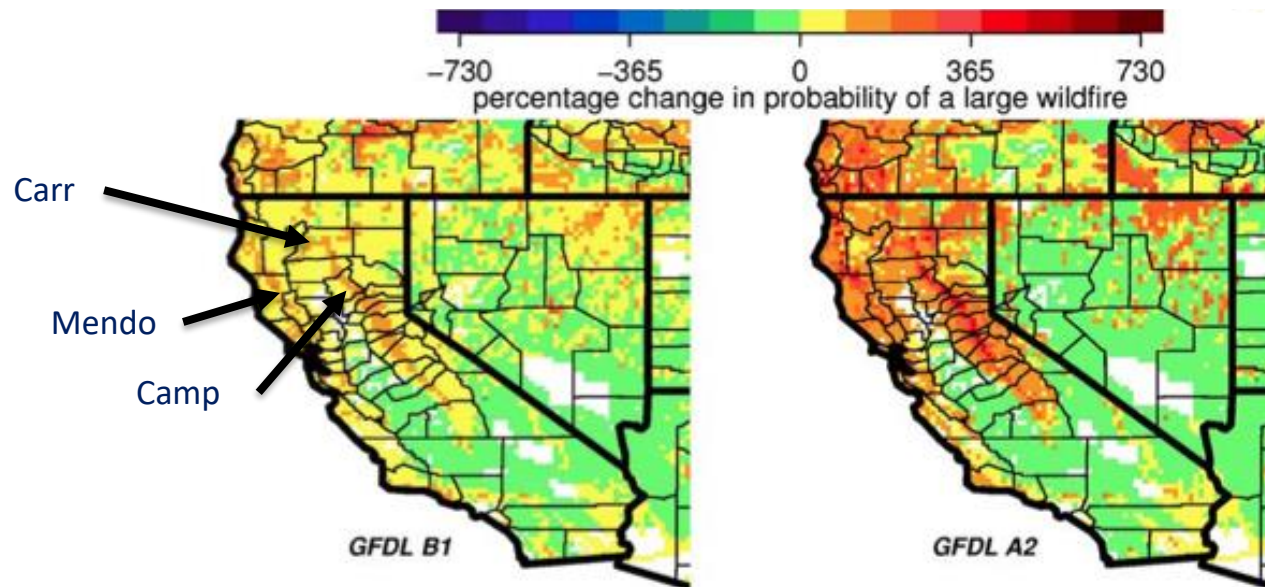


Fig. 7 Percentage change in probability of a large wildfire by 2070-2099 over the 1961-1990 reference period for four climate scenarios

What is a Public Safety Power Shutoff?

PG&E CEO: We Hear the Anger, are Working Hard to Avoid Power Shut-Offs

Customers in high fire-threat areas are more likely to be affected, any of PG&E's more than 5 million electric customers could have their power shut off. This is because the energy system power lines working together to provide electricity across cities, counties and regions.

Beyond these improvements, we're working hard to make these shut-offs unnecessary. In the months and years ahead, PG&E will continue hardening the electric grid with stronger poles and lines, putting power lines underground in certain areas, and adding new technology that improves weather forecasting and real-time monitoring. We are moving as quickly as we can on these fronts.



Contact information


Outages could last

We want to work together to help our customers prepare and keep your home, family or business safe during extreme weather and possible outages. Learn more about how to prepare a safety plan.

reach out. power outage, when



Why?

- Growth is not planned
 - Engineering hubris
 - Failure to adopt safeguards
 - Perverse incentives
 - Changing corporate vision
 - The whole is less than the sum of the parts
- 



Why?

- Staff is too small
- Pay is too low
- Safety was the lowest priority for many years




Why?

- Too much humility
 - ❖ *Utility people know more*
 - ❖ *Economists think market signals are better*
 - ❖ *Fear of micromanagement*
- No one cares more than the utilities do





What
can they
do?

- Staff up
- Work with the new board
- Embed a team at PG&E
- Study more, and call fewer balls and strikes
- Micromanage



Typical causes of action brought against utilities for wildfires:

1. negligence
 2. wrongful death and survival
 3. inverse condemnation
 4. public nuisance
 5. private nuisance
 6. premises liability
 7. trespass
 8. violation of Pub.Util.Code § 2106
 9. violation of Health/ Safety Code § 13007
- 



What utilities want the
Legislature, Governor and the
press to pay attention to:

3. inverse condemnation





What utilities argue to regulators and the courts:

“Inverse condemnation is unfair, so we must be compensated.”

But what if the utility did wrong?



If the CPUC were to allow recovery of liabilities just because of inverse condemnation, the utility would be shielded from accountability.



Winning a case

Elements of Inverse Condemnation

- causation
- while providing a public service

Elements of Negligence

- duty of care
- breach of the duty
- causation
- proximate cause
- actual damages

Reasonableness v. Negligence


Reasonableness Review

Utility must prove that all costs are reasonable


Negligence in Civil Court


The plaintiff must prove that the utility was negligent

“Contributory negligence” means that liabilities can be shared




The criticisms of reasonableness reviews:

- Standard of perfection
 - 20/20 hindsight
 - Unpredictability
- 




The problem with abandoning reasonableness reviews:

- There is no substitute for good judgment at the time
 - Those who can avoid a problem must bear the risk
 - There must be a standard for good management
- 



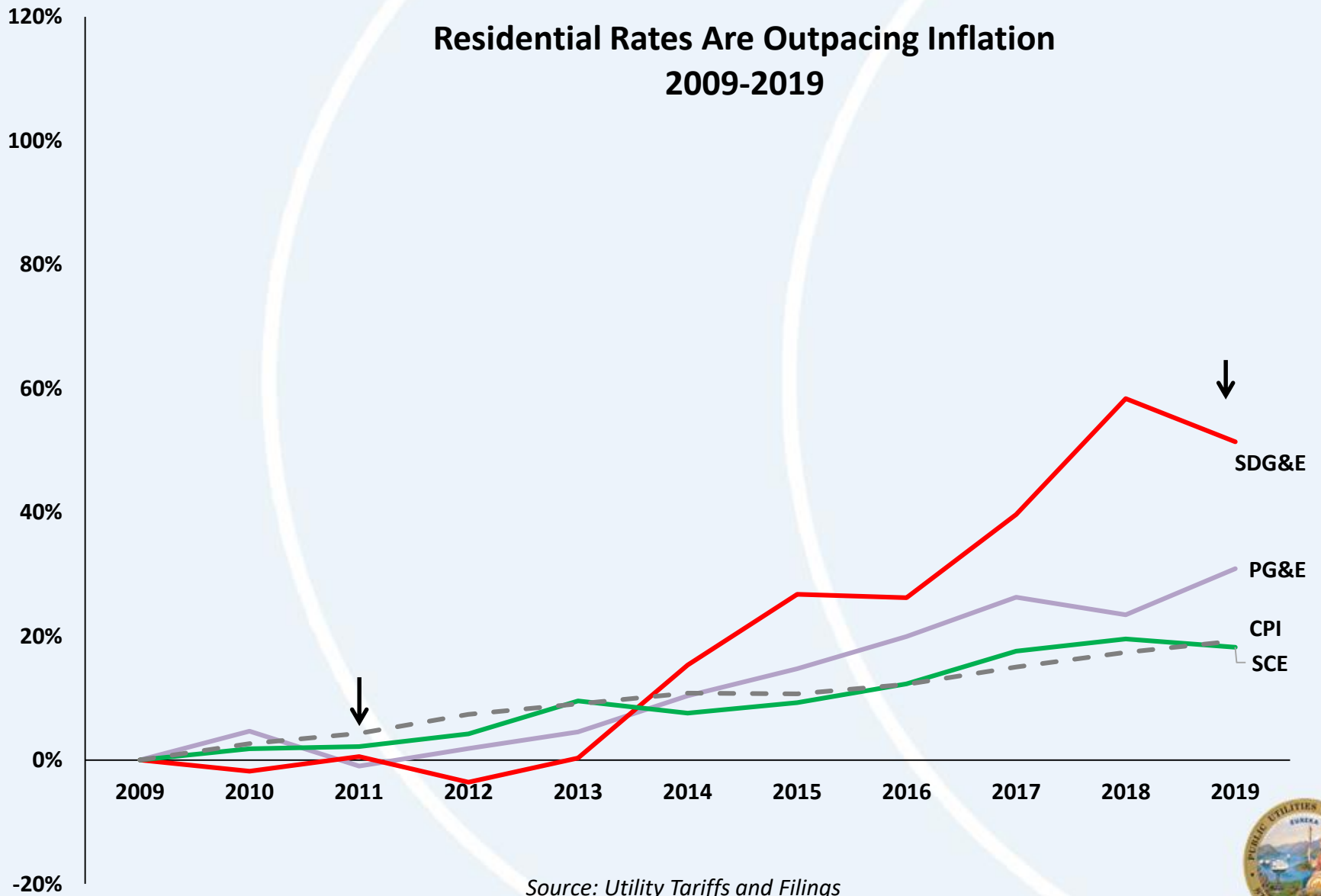
Why SDG&E's U.S. Supreme Court case was on shaky ground:

- There was never a court decision imposing inverse condemnation
 - The place to object to inverse condemnation is on the basis of a court decision applying it
 - Nothing about inverse condemnation changes the CPUC's obligation to ensure that all costs are reasonable
 - The CPUC's decision is supported with facts and courts usually defer
- 





Residential Rates Are Outpacing Inflation 2009-2019

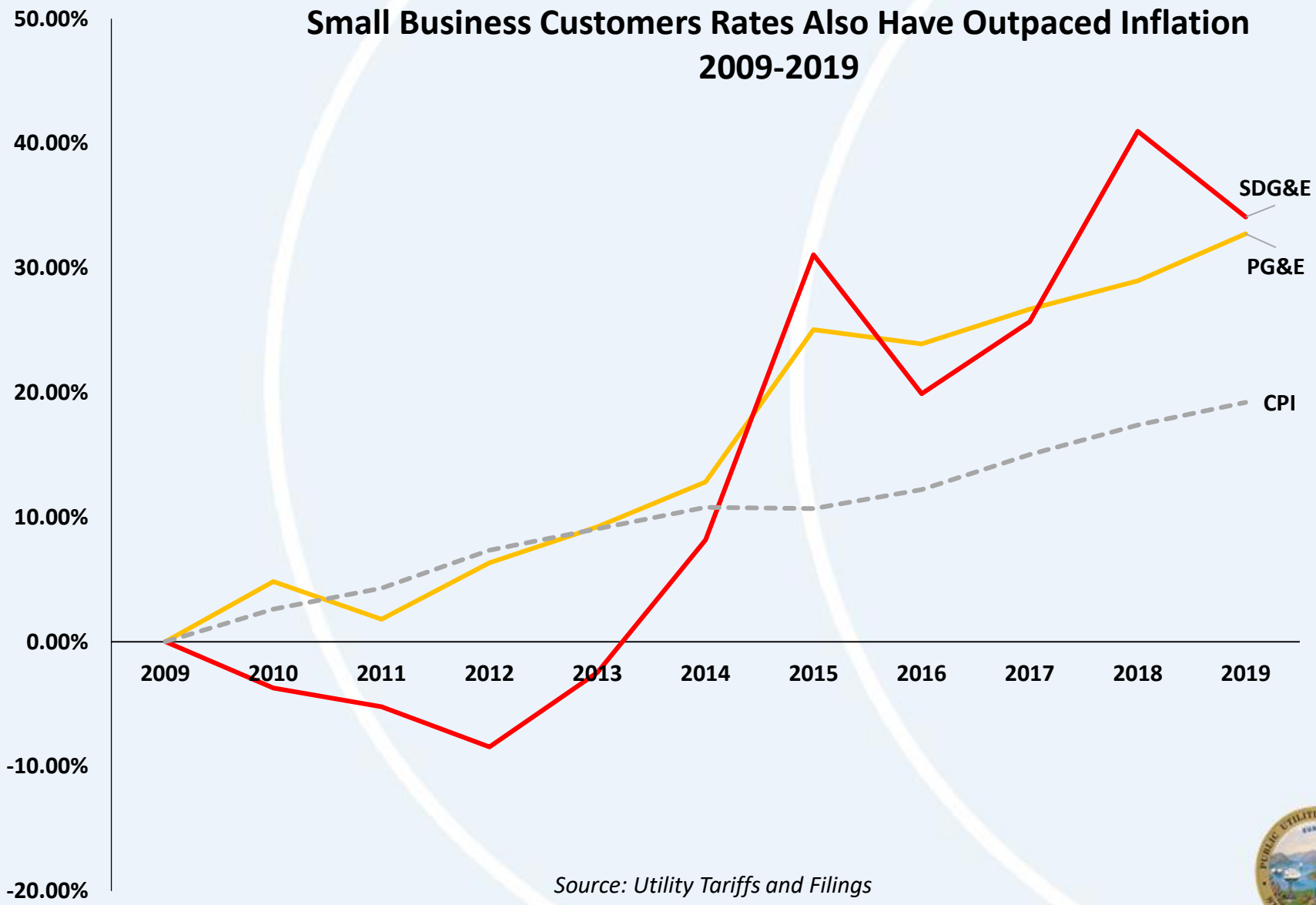


Source: Utility Tariffs and Filings





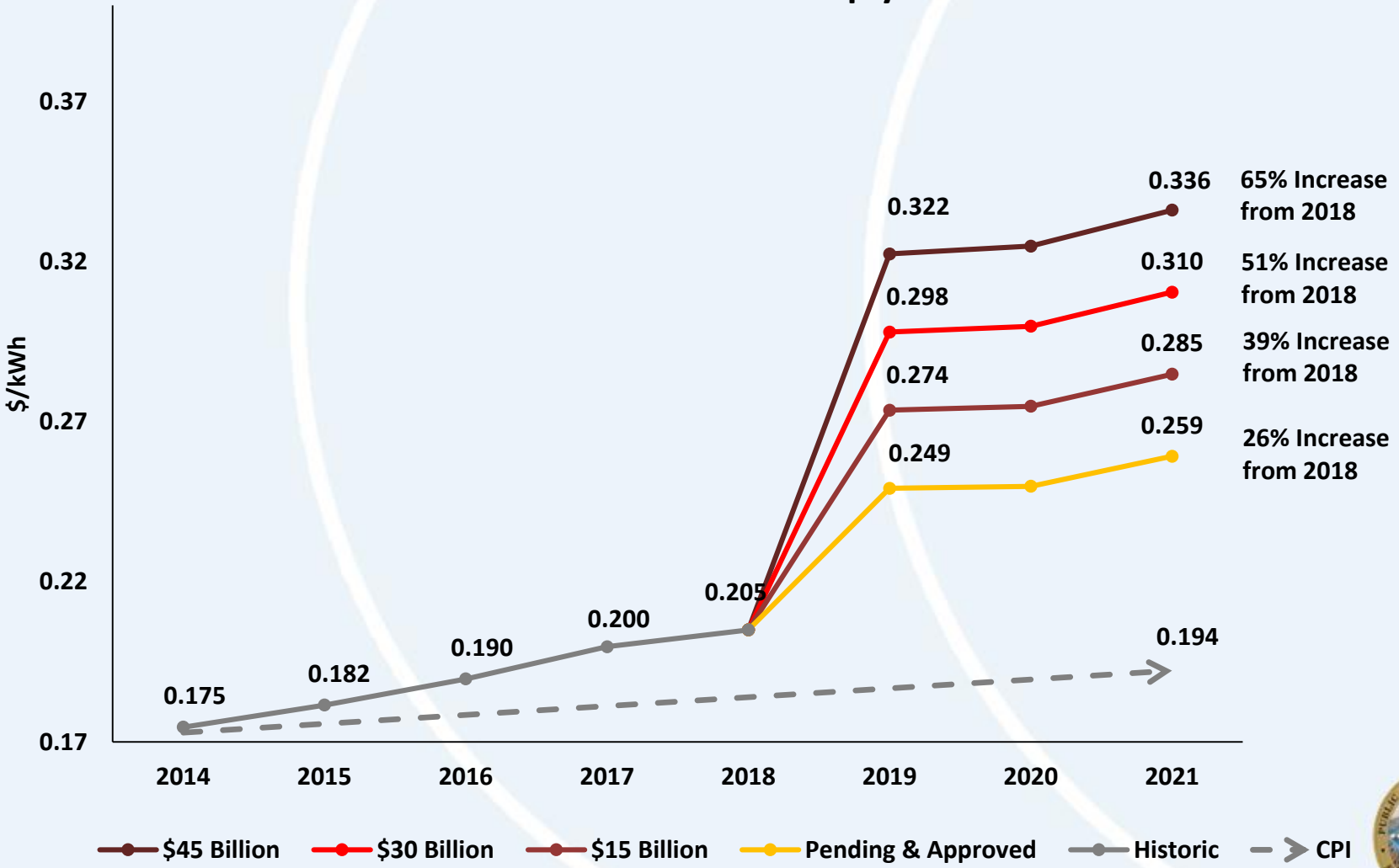
Small Business Customers Rates Also Have Outpaced Inflation 2009-2019



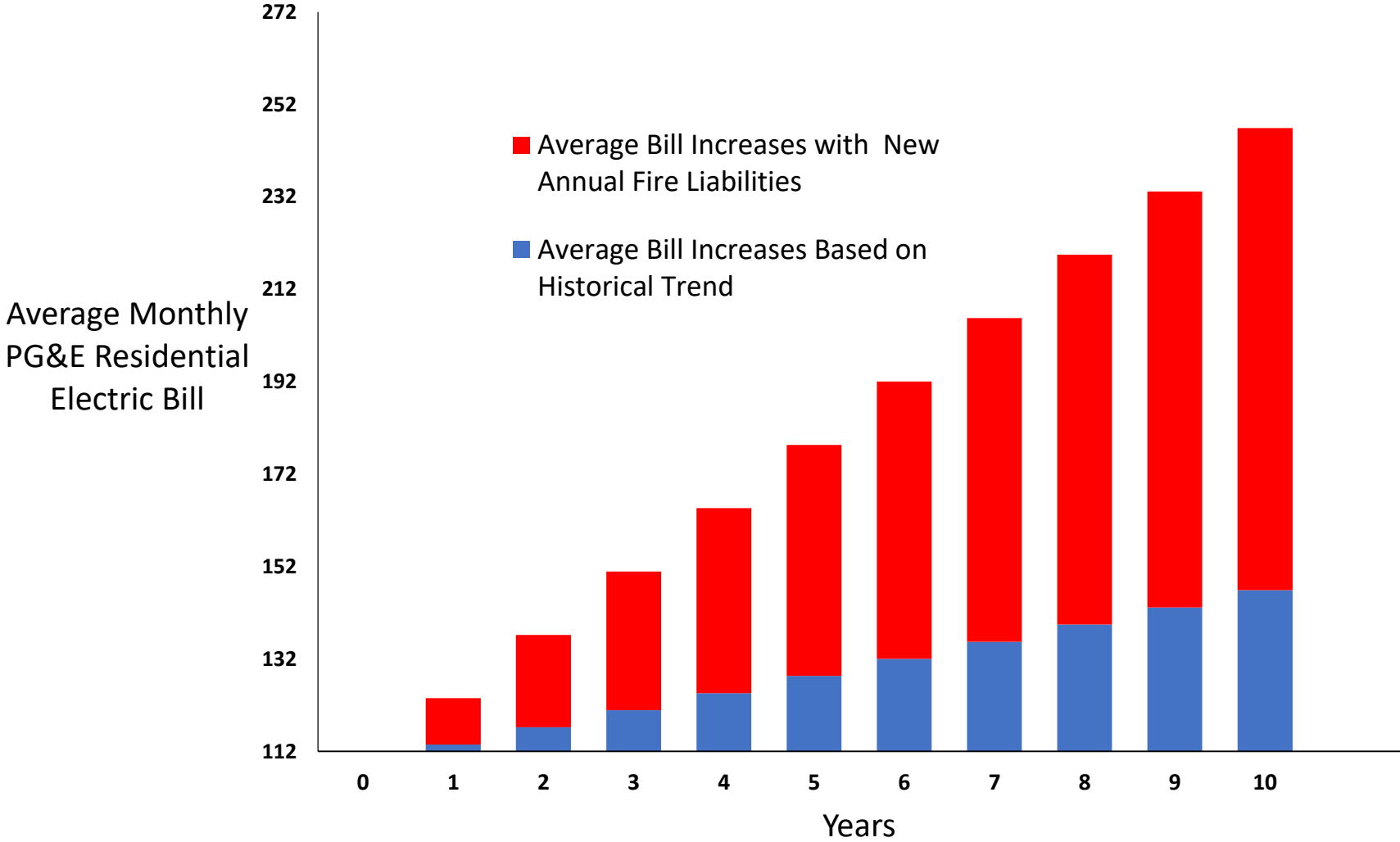
Source: Utility Tariffs and Filings



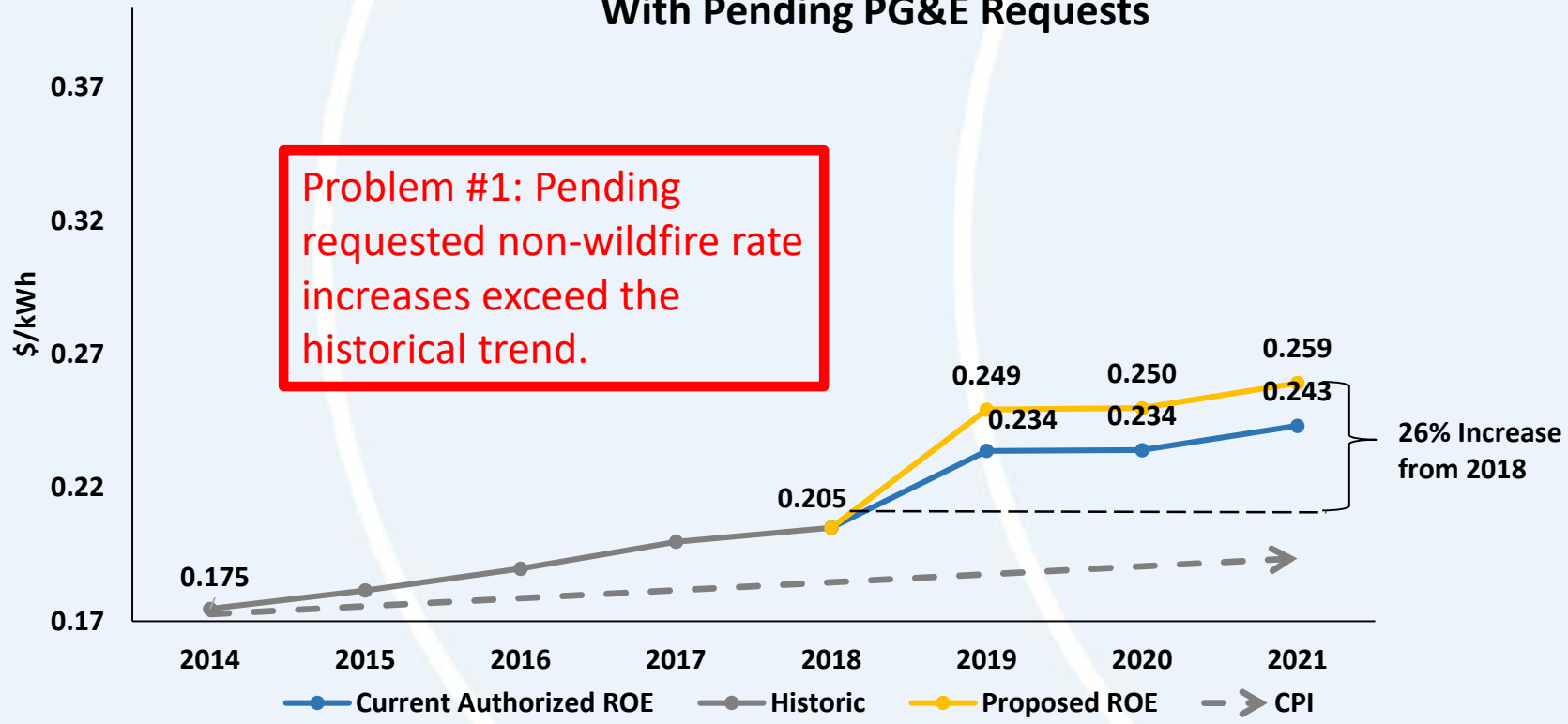
Ratepayer Funding of Wildfire Liability Costs Will Cause PG&E's Rates to Climb Sharply



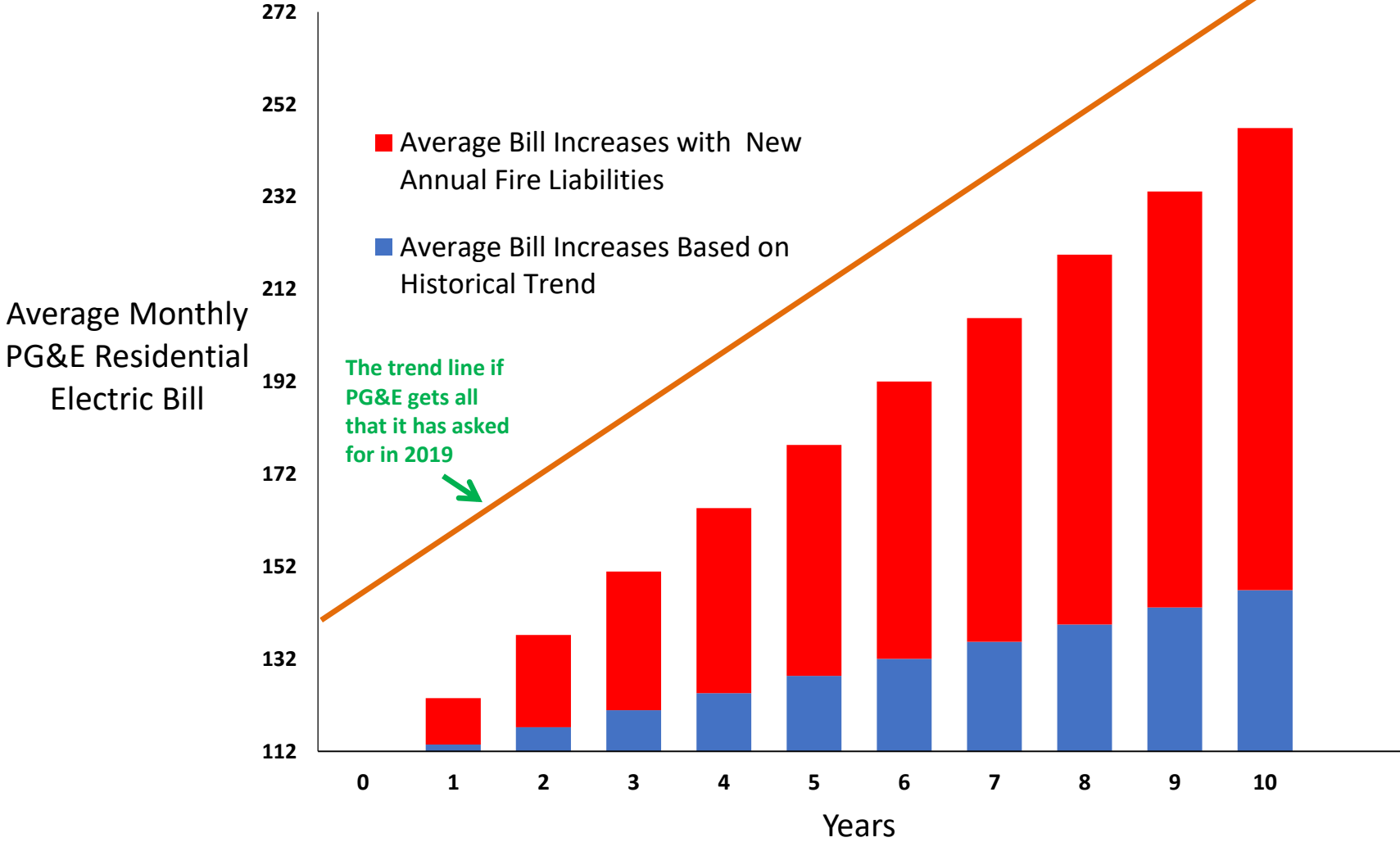
Potential Future PG&E Residential Electric Bill with Fire Cost Added



Residential Average Rate Forecast With Pending PG&E Requests




Potential Future PG&E Residential Electric Bill with Fire Cost Added





AB 1054

- \$21 billion insurance pool for future fires
 - Weaker standards making it easy to charge the utility customers
 - Requirement that PG&E exit bankruptcy by June 30, 2020
- 



Steve Weissman
sweissman@berkeley.edu