

## California Wildfires Spur Liability and Policy Responses

Volume 2 / Issue 27 (8.6.2018)

## POLICY INSIGHTS

A weekly summary of EventShares' conversations with policy experts. The newsletter analyzes policy developments and future Wall Street impacts.

If you like the research, pass it on! The [sign-up link is right here](#).

### PAST ISSUES

- 3Q'18 Policy Tracker
- 3 Non-Consensus Views to Make You Think
- Regulation is Slowing the Trucking Industry
- Trump's China War



### California Wildfire Liability

**According to the Insurance Information Institute (III), seven of the ten costliest US wildfires have occurred in the state of California.** In 2017, California experienced the second highest number of wildfires among US states and saw the third highest number of total acres burned. California's extreme weather and the length of the wildfire season are possible causes for the increased number of large wildfires in the state. **Further exacerbating the problem, the state's growing population and high property values mean property losses are high when compared to other regions.**

### Legal Liability

**Following recent California wildfires, a debate has emerged over who holds the liability for losses.** One potentially liable party is the California public utilities whose power lines and equipment dot the state's landscape and bring electricity and natural gas to the state's residents. The liability stems from a legal doctrine called inverse condemnation, which is like eminent domain where the government forces the sale of private property for a public project or use. Under inverse condemnation, property owners may be able claim their private land was forcefully taken and used for the public good without following the appropriate procedures and paying just compensation.

**California property owners are filing inverse condemnation against utilities (e.g. the utility used their land for the public good and damaged it), claiming utilities are liable for damages**

**resulting from the design, construction and maintenance of facilities, including their electric transmission lines.** California courts have previously accepted this argument, imposing liability on the utilities with the rationale that losses borne by the person whose property was damaged through a public use undertaking should be spread across the community that benefited from such undertaking. **It is important to note that inverse condemnation assumes utilities can recover these costs from their customers.**

## Proposed California Legislation

Recent wildfires are forcing California utilities to pursue cost recovery measures for inverse condemnation liabilities. **However, their opponents, including some lawmakers, are pushing back to protect consumers from being burdened with increased costs.**

One of the bills introduced to combat utilities' cost recovery ability is California SB 819, which would **prohibit the recovery of costs in excess of insurance resulting from damages caused by such utilities' facilities, if the California Public Utilities Commission (CPUC) determines the utility didn't reasonably construct, maintain, manage, control, or operate its facilities.** Another bill would raise the standards for strengthening infrastructure, such as transmission lines (California SB 1088).

**Shoring up insurance coverage is another priority for the state.** Examples of introduced bills include a bill that would force insurance companies to accept customers' list of items lost to natural disasters and pay out no less than 80% of the policy limit (California SB 897) and a bill that would allow residents to combine coverage from their primary residences and other buildings when rebuilding their homes (California SB 894). A separate bill would make it **harder for insurance companies to cancel or reduce coverage in fire risk areas without signoff from the state insurance commissioner** (California SB 824).

## Impacted Companies

**California's utilities are the most impacted from wildfire liability in our view.** As wildfires continue to consume and destroy millions of acres across the state, the firefighting, recovery and rebuilding, and insurance costs will continue to increase.

One company currently subject to wildfire liability is PG&E Corporation, a utility headquartered in San Francisco, CA. **The company recently recorded a \$2.5 billion charge in its Q2 2018 earnings after officials blamed its power lines for sparking a deadly 2017 wildfire.** Analysts estimate the final liability could exceed \$8 billion. If CPUC rejects a cost recovery proposal or the California state legislature passes wildfire liability rules, PG&E could be forced to declare bankruptcy.

**Numerous questions remain: Who will shoulder the costs? If a utility is liable, will it be able to recover costs?** A CPUC ruling in November 2017 may hold the answers to these questions. The commission rejected a San Diego Gas and Electric proposal to pass on \$379 million in inverse condemnation costs related to a 2007 fire. **This creates a legal precedent in our view and increases the risk of bankruptcy among California utilities. For now, it may be best to stay away from the western US utilities that are subject to elevated fire risk, especially those in California.**



## Contact Us

EventShares Headquarters  
200 Vesey Street, 24th Fl.  
New York, NY 10281  
+1 646-787-0394  
info@EventShares.com  
[www.EventShares.com](http://www.EventShares.com)

## Chief Investment Officer

Ben Phillips, CFA  
Ben@EventShares.com

## Chief Policy Strategist

Matt Clements, CPA  
Matt@EventShares.com

## About EventShares

EventShares is an asset manager located in New York City focused on the impacts created by legislation, regulation, and fiscal policy. The firm is founded on the belief that policy is a powerful leading indicator for companies. We seek out investments with embedded policy catalysts believed to offer better-than-expected return opportunities (alpha).

EventShares offers numerous educational resources to help investors connect the worlds of Washington, D.C., and the stock market.

[Subscribe to Research](#)

**DISCLAIMER:** Active Weighting Advisors LLC ("AWA") is an SEC-registered investment adviser that manages ETFs under the brand name EventShares Funds. The opinions expressed herein are those of AWA as of the published date and are subject to change. It is provided as general market commentary only, and it does not consider the specific investment objectives, financial situation or particular needs of any one client. The comments may not be relied upon as recommendations, investment advice or an indication of trading intent. AWA is not soliciting any action based on this document. Investors should consult with their own financial adviser before making any investment decisions.

There is no guarantee that any future event discussed herein will come to pass. The information herein was obtained from various sources, which we believe to be reliable, but we do not guarantee its accuracy or completeness. Returns assume no management, transaction or other expenses and no reinvestment of dividends, interest and/or capital gains. **Past performance does not guarantee or indicate future results.**

Investing involves risk, including the possible loss of principal and fluctuation of value. AWA disclaims responsibility for updating information. In addition, AWA disclaims responsibility for third-party content, including information accessed through hyperlinks.