Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Cottie Petrie-Norris, Chair
AB 2329 (Muratsuchi) – As Amended March 21, 2024

SUBJECT: Energy: California Affordable Decarbonization Authority

SUMMARY: Establishes a California Affordable Decarbonization Authority (the Authority) as a nonprofit public benefit organization as a mechanism to help fund various electric utility-related programs and activities. Specifically, **this bill**:

1) Requires the California Public Utilities Commission (CPUC) and the California Energy Commission (CEC) to jointly authorize the establishment of the Authority. Requires the Authority be governed by an independent board of directors appointed by the Governor, Speaker of the Assembly, and Senate Committee on Rules, as specified.

2) Requires the Authority to maintain open meeting standards and meeting notice requirements consistent with the requirements of the Bagley-Keene Open Meeting Act and the California Public Records Act.

3) Establishes the Climate and Equity Trust Fund (the Trust) as a fund, separate and apart from all public moneys or funds of the state, and specifies the Trust to consist of to-be appropriated moneys transferred from the federal government; moneys transferred from the Greenhouse Gas Reduction Fund (GGRF); moneys from noncompliance penalties assessed by the CPUC, the CEC, or the California Air Resources Board (CARB); interest earned; and any properties or securities.

4) Authorizes disbursements from the Trust to be made through direct credits on ratepayer bills; direct rebates or incentives to market participants, technology vendors, technology installers, and end-use customers; and reimbursement of eligible costs incurred by load-serving entities (LSEs) or publicly owned utilities (POUs), among any other purpose, in the form of matching funds.

5) Specifies proposed disbursements of the Trust shall support affordable electricity for end-use customers. Specifies eligible costs for reimbursement include transportation electrification programs and incentives, building electrification programs and incentives, public purpose programs, programs to promote equity and affordability for low-income customers, wildfire mitigation activities, distributed energy resource incentives, administrative and overhead costs, and any other purpose specified by the Legislature in a General Fund appropriation of money to the authority.

6) Specifies monies in the Trust shall not be used for shareholder incentives or return on equity, nor any administrative or overhead costs incurred by a state agency.

7) Requires the Authority to submit annual and multiyear spending plans for review and approval to the CPUC and CEC before disbursing trust fund moneys. Requires the CPUC and CEC to each review and accept, modify, or reject the spending plans of the Authority prior to any disbursement of funds from the Trust.

EXISTING LAW:

1) Establishes and vests the CPUC with regulatory authority over public utilities, including electrical corporations and gas corporations. (Article XII of the California Constitution)

2) Authorizes the CPUC to regulate public utilities, including electric and natural gas corporations and establish rates for these utilities. (Public Utilities Code §201 et. seq.)

3) Directs the CPUC to develop a definition of energy affordability, establish metrics for energy affordability, and use the established metrics to assess the impact of proposed rate increases on different types of residential customers. (Public Utilities Code § 739.13)

4) Establishes the California Alternate Rates for Energy (CARE) program, a program of assistance to low-income residential investor-owned utility (IOU) customers with annual household incomes no greater than 200% of federal poverty guidelines. CARE discounts cannot be less than 30% nor greater than 35% of the revenues that would have been produced for the same billed usage by non-CARE customers, and requires the entire discount to be provided in the form of a reduction in the overall bill for the eligible CARE customer. (Public Utilities Code § 739.1)

5) Establishes the Family Electric Rate Assistance (FERA) program, a program of assistance to low-income residential customers of the state's three largest IOUs whose household income ranges between 200% and 250% of the federal poverty guidelines, slightly exceeding the CARE allowance. Requires the FERA program discount to be an 18% line-item discount applied to an eligible customer's bill calculated at the applicable rate for the billing period. (Public Utilities Code § 739.12)

6) Mandates each electric and gas IOU to develop and implement a rate assistance program at a fixed percentage to eligible food banks, as specified. (Public Utilities Code § 739.3)

7) Creates a charge on electricity and natural gas consumption to fund cost-effective energy efficiency and conservation activities. (Public Utilities Code §§ 381, 890, and 1615)

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

BACKGROUND:

What's in a Utility Bill? – Costs that utilities can forecast with reasonable accuracy are examined and approved by the CPUC in general rate case (GRC) proceedings.[1] In these GRC proceedings, the CPUC determines the total amount the utility is authorized to collect (the "revenue requirement"). The utilities' authorized revenue requirements typically remain unchanged even if the utilities spend more or less than authorized by the CPUC.[2] Approximately 62% of the utilities' electric revenue requirements are set in GRCs at the CPUC and FERC;[3] the remaining 38% consists of pass-through of the costs of power procurement, DWR bond charges, nuclear decommissioning trusts, Public Purpose Programs (PPP), fees, and regulatory expenses approved by the CPUC.[4] Table 1 shows the breakdown of the major components of the electric IOUs' 2023 revenue requirement.

Table 1: 2023 Electric IOU Authorized Costs ($ billions)[5]

Source	SCE	PG&E	SDG&E
Generation/Energy Procurement	6.76	4.21	0.95
Distribution	7.36	6.67	1.67
Transmission	1.35	3.27	0.86
Public Purpose Programs	1.4	2.02	0.63
Bonds and Fees	0.51	1.14	0.08
Total	17.38	17.31	4.19

Report on Inequities in California's Electricity Rates – In February 2021, researchers at the University of California, Berkeley's Energy Institute at Haas and NEXT 10 published a report examining the causes behind California's high electricity prices, and offered pricing reforms that could potentially improve efficiency and equity. The report found California's high electric rates are roughly two to three times the costs it takes to produce electricity.[6] This misalignment between price and costs may confuse many customers, as the costs imbedded in an electric bill

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[1] In January 2020, the major utilities were directed by the CPUC to transition from a three-year GRC cycle to a four-year GRC cycle. D. 20-01-002
[2] The exception to this occurs in operations covered by balancing and/or memorandum accounts which can adjust the authorized revenue requirement based on actual spending, upon CPUC approval.
[3] FERC sets the revenue requirement for transmission assets.
[4] Pg. 16, CPUC, *2023 California Electric and Gas Utility Costs Report: AB 67 Annual Report to the Governor and Legislature*, published April 2024.
[5] Rounded values taken from Pg. 1, 2023 AB 67 Report.
[6] Pg 4, Borenstein, S., Fowlie, M., and Sallee, J., "Designing Electricity Rates for an Equitable Energy Transition," *Energy Institute at Haas* working paper WP 314, February 2021.

grow more removed from the cost of delivering the electricity, and any effort by an individual to reduce consumption might have little effect on their billing. The researchers pointed to inequities in cost recovery between a household that did or did not adopt behind-the-meter solar panels, and also raised wildfire mitigation expenses as a likely major cost driver of price increases in the near future.

The report demonstrated that lower- and average-income households increasingly bear a greater burden of the high fixed costs of delivering electricity. The authors suggest that to address these inequities, the state—directly through tax revenue—could support some of the measures currently embedded in utility rates. The authors suggest that using revenue raised from sales or income taxes would be much more progressive than the current scheme of electricity pricing, ensuring that higher-income households pay a higher share of the costs.[7]

COMMENTS:

1) *Author's Statement.* According to the author, "California's retail electricity rates have skyrocketed in recent years, driving average customer bills upwards and threatening the affordability of basic service. Higher electricity bills could undermine California's climate goals—households are less likely to adopt clean technologies such as zero-emission vehicles, electric heat pumps for space heating and hot water, and induction stoves if they can't afford the electricity needed to support them. AB 2329 establishes the Climate Equity Trust Fund to ensure the state's electrification transition doesn't leave behind its most vulnerable residents."

2) *Addressing Affordability.* This bill establishes a Trust to promote affordable electricity rates through disbursements of direct bill credits to customers; direct rebates or incentives to vendors, installers, or end-use customers; or through reimbursements of eligible costs incurred by LSEs or POUs. Creating a Trust could be a useful mechanism to alleviate cost pressures on electric ratepayers. As noted by this committee in past hearings, California utility bills have been rising over the last decade. Many ratepayer-funded programs have been adding significantly to rates; these include wildfire mitigation, grid hardening, transportation electrification, and decarbonization efforts.[8, 9]

   This bill proposes to establish a nonprofit benefit corporation, the Authority, to help reduce ratepayer costs. The Authority would be able to receive funds (state budget, federal dollars, other non-ratepayer funding) that could be used to reimburse utilities and their customers from specified expenses. This bill includes a broad list of possible utility-related activities that could be funded, such as wildfire mitigation, transportation

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[7] Pg. 5, *Ibid.*
[8] Borenstein, S., Fowlie, M., and Sallee, J., "Designing Electricity Rates for an Equitable Energy Transition," *Energy Institute at Haas* working paper WP 314, February 2021.
[9] "Utility Costs and Affordability of the Grid of the Future: An Evaluation of Electric Costs, Rates, and Equity Issues Pursuant to P.U. Code Section 913.1," CPUC, February 2021.

electrification, and public purpose programs, among others, to help reduce electric customer bills. However, the mechanics of the disbursements from the Trust are unclear. First, the bill provides no assurance that Trust moneys used to reimburse LSEs or POUs for eligible costs result in reductions to customer bills. For reimbursements, the utility would either have already been authorized and begun collecting the money from ratepayers to conduct the eligible work; or the utility would be conducting work that was not pre-authorized. This could result in the utility effectively being paid twice for the same expense, or potentially being reimbursed for expenses not yet determined reasonable. Neither scenario seems aligned with the author's intent. A clarifying amendment may be helpful.

Second, while using alternative funding streams to pay for existing ratepayer-funded programs may be more equitable, it does introduce volatility (from the General Fund or the Greenhouse Gas Reduction Fund) into the payment structure for many of these long-standing, ratepayer-funded programs. As currently drafted, any and all public purpose programs could be included among the activities to be funded by the Authority. However, for the most vulnerable residents who rely on low-income rate assistance programs, anticipating an annual or semi-annual credit may not be sufficient to address their needs for ongoing utility bill discounts, such as those participating in the CARE program. These programs are likely less suitable to the volatility of state budgets. The author may wish to consider removing low-income rate assistance programs from the list of eligible activities, to ensure their ongoing stability in providing for the most vulnerable. Or contemplate a stable line-item in the Trust for the disbursement to these programs.

Third, the bill proposes the Authority as a nonprofit public benefit corporation, presumably to provide independence from state agencies. However, the bill authorizes the CPUC and CEC to establish the Authority, to set up all governing structures and rules, to review all spending plans, both present and future, and even to appoint initial officers and staff. It is unclear how much independence would be gained from such an arrangement, at least initially. It is also unclear whether that independence is worth the expense of establishing and maintaining the Authority outside of an existing agency – either the CPUC, the CEC, the Department of Community Services and Development, or partnerships amongst them. Agencies may be able to reassign existing staff with the management of the Trust, rather than spending designated Trust funds for administrative costs and new overhead, as this bill allows. It is also noteworthy that the Legislature has already, repeatedly ensured funding for similar purposes as those at the center of this bill, including ratepayer arrearage relief and the offsetting of public purpose programs with non-ratepayer funds. The Legislature has done so simply through its appropriation authority, without resorting to a quasi-public pass-through entity, to date.

3) *What More Remains?* Writing in Support if Amended, the Southern California Public Power Authority (SCPPA) raises the desire for infrastructure projects related to the generation, storage, and transmission and distribution of clean energy to be eligible

expenses to fund with the Trust. They note "these projects are by far the most important – and costly – investments needed for our decarbonization efforts, and offsetting these costs with non-ratepayer funds is the most effective way of keeping rates affordable for POU customers." While past legislative efforts, such as the creation of a Central Procurement Entity at the Department of Water Resources,[10] is likely to lead to state investment in energy generation, SCPPA proposes an even greater expansion of eligible infrastructure to help reduce ratepayer costs. Such alternative funding for infrastructure may lead to lower costs to ratepayers than the utilities could achieve on their own, depending on what funds are used. For instance, if the state issues a bond and puts the revenue into the Trust to pay for electric infrastructure, those costs may be lower due to interest rates on state bonds, state tax breaks, and minimizing project development risk by projects having the backing of the state.

However, no such efficiencies are guaranteed. While the bill does require the CPUC and CEC to sign off on all Authority spending plans, it does not explicitly require the Authority to work through existing planning regimes or to consult with the LSEs or POUs to ensure selected projects are needed and reasonable. The author may wish to clarify how the Authority's spending plans synchronize with existing utility planning, in order to ensure efficiencies and minimize duplication or waste.

4) *Prior Legislation.*

AB 982 (Villapudua, 2023) eliminated from electric IOU rates the costs of various programs, including utility bill discount programs for low-income customers, and instead establishes a Public Utilities Public Purpose Programs Fund in the State Treasury to fund the programs. Status: Died – the Assembly Committee on Appropriations.

AB 2765 (Santiago, 2022) largely the same as AB 982 (Villapudua, 2023). Status: Died – the Assembly Committee on Appropriations.

SB 1020 (Laird) establishes interim targets to the statewide 100% clean energy policy. Additionally requires state agencies to accelerate their 100% clean energy policy goal by 10 years. Earlier versions of the bill had identical provisions to what is put forward under this measure. Status: Chapter 361, Statutes of 2022.

5) *Double referral.* This bill is double-referred; upon passage in this Committee, this bill will be referred to the Assembly Committee on Natural Resources.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Sacramento
California State Association of Electrical Workers

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[10] Per AB 1373 (Garcia, Chapter 367, Statutes of 2023)

Citizens Climate Lobby
Climate Action California
Coalition of California Utility Employees
Natural Resources Defense Council
Quitcarbon
Santa Cruz Climate Action Network
The Climate Reality Project: Silicon Valley
The Utility Reform Network (TURN)
Union of Concerned Scientists

Support If Amended

Southern California Public Power Authority (SCPPA)

Opposition

None on file.

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