Date of Hearing: March 13, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Cottie Petrie-Norris, Chair
AB 1912 (Pacheco) – As Amended February 21, 2024

SUBJECT: Electricity: measures imposing mandated programs and requirements: third-party review

SUMMARY: Authorizes the University of California, Berkeley, to prepare a written analysis for a measure affecting electrical corporations before the measure is heard before a committee. Specifically, **this bill**:

1) Requests the University of California, Berkeley, to develop and implement conflict-of-interest provisions that would prohibit a person from participating in an analysis in which the person knows or has reasons to know that the person has a financial interest.

2) Requests the Regents of the University of California to annually inform the State Controller of the amount necessary to fund the work of the University of California, Berkeley, on condition that the costs of the work not exceed $2,000,000.

3) Requires the State Controller to assess large electrical corporations, proportionate share of the amount reported by the Regents of the University of California every June 15 of each year. This bill would require the large electrical corporations to pay their proportionate shares no later than August 1 of each year.

4) Requires the moneys collected to be deposited into the Electric Programs Benefit Fund, which would be created by the bill. Additionally, the bill would continuously appropriate the moneys in the fund to the Regents of the University of California to support the work of the University of California, Berkeley, in providing analyses under provisions of this bill.

5) Includes a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and as such would require for passage the approval of $^{2}/_{3}$ of the membership of each house of the Legislature.

EXISTING LAW:

1) Authorizes the California Public Utilities Commission (CPUC) to fix the rates and charges for every public utility, including electrical and gas corporations, and requires that those rates and charges be just and reasonable. (Public Utilities Code §451)

2) Requires the CPUC, in establishing residential electric and gas rates, to ensure that the rates are sufficient to enable the electric or gas corporation to recover a just and reasonable amount of revenue. (Public Utilities Code §739(d)(2))

3) Requires the CPUC to prepare a written report on the costs of programs and activities conducted by the four major electric and gas companies regulated by the CPUC. (Public Utilities Code § 913.1)

4) Requires electric, gas, water, and telephone corporations to notify affected customers of proposed revenue changes that will impact their utility bill, by displaying rate impacts of the proposed revenue change in dollars and degree of change (percentage). (Public Utilities Code §454)

5) Requires the CPUC to require each electrical corporation to identify a separate rate component to collect the revenues used to fund certain programs. (Public Utilities Code § 381)

6) Establishes a natural gas surcharge to fund cost-effective energy efficiency and other public purpose programs. (Public Utilities Code § 890-900)

7) Establishes that it is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of all retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045. (Public Utilities Code § 454.53)

8) Urges the President of the University of California in collaboration with the Presidents' of the University of Southern California, the California Institute of Technology, Stanford University, and the Chancellor of the California State University to establish the California Council on Science and Technology (CCST). CCST reports to the presidents and chancellor and responds appropriately to the Governor and Legislature on public policy issues significantly related to science and technology. Membership of CCST is comprised of academia, experts, scientists and engineers from California. Assembly Concurrent Resolution 162, (Farr, 1988)

9) Provides independent analysis of legislation proposing to mandate a benefit or healthcare related service through the California Health Benefits Review Program and a National Advisory Council. (Health and Safety Code § 127660-127665)

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

BACKGROUND:

California Rates are Awfully High. In recent years, many Californians have experienced record high electric and natural gas bills. According to a 2023 report by the California State Auditor, California has the seventh-highest average electricity rates and the 10th-highest average residential natural gas prices in the nation.[1] While a utility rate is not the same as a customer bill, and electricity usage rates are lower in California than in some other states, usage and rates inform the amount on a customer's bill. While rates are high, the actual electric bill the average California residential and industrial customer pays are below the national average.[2] Despite

[1] Pg. 7, California State Auditor; *Electricity and Natural Gas Rates*; Report 2022-115; August 2023.
[2] Data from the U.S. Energy Information Administration EIA-861 schedules 4A-D, EIA-861S and EIA-861U; https://www.eia.gov/electricity/sales_revenue_price/pdf/table5_a.pdf and https://www.eia.gov/electricity/sales_revenue_price/pdf/table5_c.pdf

information disclosure requirements and opportunities for public participation in utility ratemaking, as a practical matter, most of these bill increases come unexpectedly — distressing many Californians already struggling with inflation, rising housing and transportation costs, economic volatility and climate related disasters. About 2.4 million customers of California's three largest utilities are behind on their bills, accounting for approximately $1.8 billion in energy debt.[3] Sadly, these trends show no indication of slowing down.

What Determines a Utility Rate? Costs of operating and maintaining the utility system and the allocation of those costs that investor-owned utilities (IOUs) can forecast with reasonable accuracy are examined and approved by the CPUC in general rate case (GRC) proceedings.[4] The CPUC's core function as a rate regulator is to test IOU cost proposals against the "just and reasonable" standard of review. The GRCs are separated into two phases. Phase I of a GRC determines the total amount the utility is authorized to collect, while Phase II determines the share of the cost each customer class is responsible for and the rate schedules for each class. In these GRC proceedings, which run on a four-year cycle, the CPUC determines the total amount the utility is authorized to collect (the "revenue requirement"). Approximately 63% of the utilities' electric revenue requirements are set in GRCs at the CPUC and Federal Energy Regulatory Commission (FERC);[5] the remaining 37% 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.[6]

Primary Drivers for High Electric Rates. The independent Public Advocates Office has reported that the primary drivers for utility cost increases in recent years are due to wildfire mitigation, distribution and transmission infrastructure investments, and rooftop solar incentives provided to some customers through net energy metering.[7] Additionally, a recent report by the State Auditor concurs with those findings.[8] Wildfire costs, including insurance, was noted as a key factor in increased utility expenses. Further, the audit found increases in IOU operating costs, which may be inclusive of these other categories, as contributing to increased rates; specifically distribution costs for PG&E, administrative costs for Southern California Edison (SCE), and higher property and non-income taxes for SDG&E.[9] SDG&E's average rates have been above the Consumer Price Index since 2009. While many of these costs are related to core utility functions (e.g. distribution costs) or the result of utility decisions in performing its core function (e.g. wildfire costs), other costs are more ancillary in nature, if not in size (e.g. PPPs, solar incentives).

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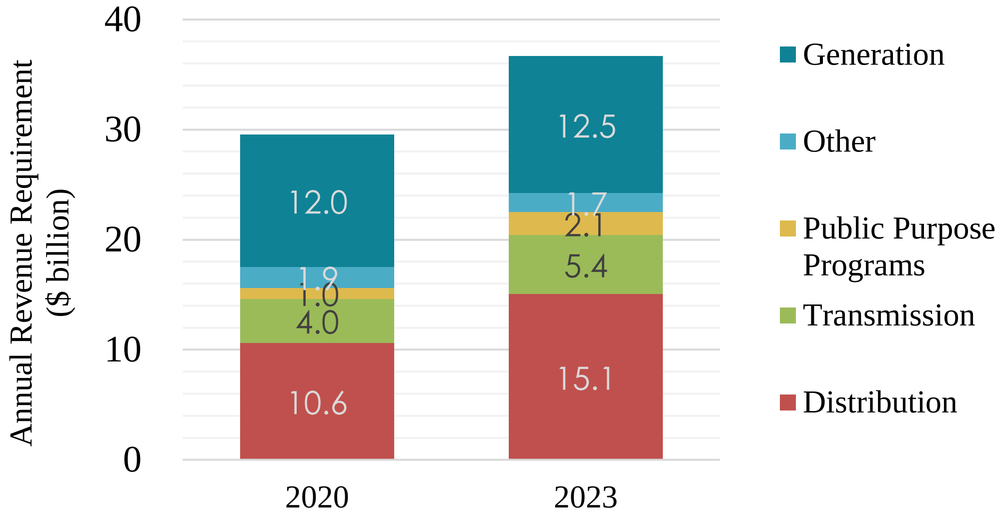
[3]November 2023 Disconnection Settlement Monthly Reports of PG&E, Southern California Edison, and SDG&E (R.18-07-005).
[4] CPUC, "What is a General Rate Case (GRC)?" https://www.cpuc.ca.gov/generalratecase
[5] FERC sets the revenue requirement for transmission assets.
[6] Pg. 15, CPUC, *2021 California Electric and Gas Utility Costs Report: AB 67 Annual Report to the Governor and Legislature*, published April 2022.
[7] Slide 6, PAO slidedeck "Q4 2023 Electric Rates Report;" January 19, 2024; https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/240119-caladvocates-q4-2023-quarterly-rate-report.pdf
[8] State Auditor, 2023; *Ibid.*
[9] Pg. 1; State Auditor, 2023; *Ibid.*

Components of an Electric Bill. In **Figure 1**, as shared by the Public Advocates Office, a typical residential electric bill is comprised of three components:[10]

1. Procurement Costs – the costs to purchase electricity.

2. Transmission & Distribution (T&D) – the costs to move the electricity to homes and businesses; some of these costs are approved by the CPUC (distribution costs), while others by the Federal Energy Regulatory Commission (FERC) (transmission costs).

3. Public Purpose Surcharge & Other – costs for policies and programs paid by electric ratepayers, such as the California Alternate Rates for Energy Program (CARE) that provides a bill reduction for qualified low-income customers, and various energy efficiency and research programs, among others.



Specifically, **Figure 1** illustrates the combined revenue requirement (PG&E, SCE, SDG&E) in 2020 vs. 2023, in which costs increased by category: 43% for distribution, 35% for transmission, 110% for PPPs, and only 4% for generation costs.

Annual CPUC Report. AB 67 (Levine, Chapter 562, Statutes of 2005) requires the CPUC to prepare a written report on the costs of programs and activities being undertaken by the four IOUs: PG&E, SCE, SDG&E, and Southern California Gas Company (SoCalGas). This legislation was enacted in part to determine the outcome of numerous legislative and administrative mandates, and to provide more transparency into the drivers of electric and gas rates. The report is to be submitted to the Governor and the Legislature by April 1st of each year and is required to include the following:

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[10] While this basic categorization of costs reflects major areas of utility operations, it is also used to determine what portions of utility costs should be paid by different types of customers. For instance, some customers do not receive full or bundled service from the utility and may generate their own electricity on site or buy electricity from a non-utility source (e.g., an Electric Service Provider (ESP), or a CCA). Customers who receive electricity from a CCA or ESP do not typically pay generation costs but do pay transmission and distribution costs. However, these customers are also required to pay non-bypassable charges for generation procured on their behalf before they departed from bundled service. Additionally, some larger customers receive service at transmission voltage levels and are not charged for use of the utility distribution system.

i. Each program mandated by statute and its annual cost to ratepayers.
ii. Each program mandated by the CPUC and its annual cost to ratepayers.
iii. Energy purchase contract costs and bond-related costs (commonly known as Department of Water Resources (DWR) related costs).
iv. All other accumulated categories of costs currently recovered in retail rates as determined by the CPUC.

2022 Costs of Legislative Programs. The California Legislature has mandated a number of public policy programs that IOUs operate. Table 1[11] includes a partial list. Many of these programs aim to provide the state with clean energy, while some programs provide subsidies to various customer groups. Some bonds and regulatory fees may also be mandated by the State.

Table 1 shows the 2022 electric revenue requirement for some programs required by state law with varying purposes ($000).

Program	**Legislation**	**PG&E**	**SCE**	**SDG&E**	**Total**
Renewable Portfolio Standard	SB 1078, SB 350, SB 100	1,994,448	2,435,502	538,418	4,968,369
Wildfire Fund Non-Bypassable Charge	AB 1054	457,007	446,976	92,132	996,116
Energy Efficiency	AB 32, SB 350, AB 1330, AB 802, AB 1890, AB 841	236, 204	318,470	39,571	549, 245
Energy Savings Assistance Program/California Alternate Rates for Energy (CARE) Program Administrative Expense	Public Utilities Code § 2790, §382, SB 580, SB 691, AB 327, AB 793, AB 2140, AB 2857	236,429	69,653	178,924	485,006
School Energy Efficiency Stimulus Program	AB 841	67,062	88,094	62,899	218,055
Self-Generation Incentive Program	SB 700, AB 970, AB 1144	59,819	56,626	20,069	136,514
Total		**3,050,969**	**3,415,321**	**932,013**	**7,353,305**

Dollars in Thousands ($000)

Each of these illustrative programs above, and others reported on in the CPUC's annual AB 67 report, has a purpose(s) that prompted the Legislature and the Governor at the time to create them. This ranges from increasing renewable energy resources, increasing energy efficiency

[11] Pg. 60-61, "2022 AB 67 Annual Report to the Governor and Legislature Report"; April 2023.

programs, supporting low-income households, incentivizing the use of distributed energy resources (DERs), and others. Each program has a purpose, and a cost to match.

What's old is new again. AB 1083 Chapter 818, Statutes of 2019, authorized the California Council on Science and Technology (CCST), upon request by the chairperson of a fiscal committee or certain policy committees of either the Assembly or Senate, the Speaker of the Assembly, or the President pro Tempore of the Senate, to complete an analysis of the impacts of legislation related to any of the following: procurement of electricity, electricity and gas products, energy storage, electrical or gas infrastructure by an electrical corporation, and community choice aggregation. The analysis must be completed within 60 days. However, use of this program was contingent upon CCST having funds to do the work required to complete this analysis — which it never received. This program sunset on January 1, 2023.

Examples nearer at hand. The California Health Benefits Review Program (CHBRP) was established in 2002 to provide independent analysis of the medical, financial, and public health impacts of proposed health insurance benefit mandates. A team of analytic staff (5 people) at UC Berkeley works with a task force (7 members, 21 contributors) of faculty from several UC campuses, as well as actuarial consultants, to complete each analysis in a 60-day period to better inform the Legislature. A National Advisory Council (12 members), designed to provide balanced representation among groups with an interest in health insurance benefit mandates, reviews draft studies to assure their quality. This requires additional time and advance planning on the part of all Members wishing to author legislation that will be subject to review by CHBRP, consistent with the rules and practices of the relevant legislative committees. Each report summarizes scientific evidence but does not make recommendations, deferring policy decision-making to the Legislature. The work is funded through an annual assessment of health plans and insurers in California. Over the last decade, CHBRP analyzed between 8-20 bills per year. The number of bills sent to CHBRP varies from year to year. For instance, last year the California Assembly and California Senate sent 20 bills to CHBRP and 10 bills were sent for analysis in 2024.

COMMENTS:

1) *Author's Statement*. According to the author, "Californians are struggling with the rising costs of goods and services. The monthly strain created by utility, energy and water bills, is more pronounced than ever. Part of the increase in utility bills is that they include the cost of well-intentioned policies that have been passed over the past decade. The generation and distribution of energy is technical and complicated, and the Legislature must understand the impact of legislative mandates and programs that are passed on to ratepayers already struggling with rising costs. Unfortunately, the legislative calendar does not offer enough time for Legislators to study the multiple perspectives of each bill. AB 1912 requests that UC Berkeley prepare a written analysis with relevant data on the efficacy and cost impact of each legislative proposal that mandates or requires electric services or programs prior to a committee hearing, assisting legislators in crafting energy policies that balance climate goals with affordable electric rates."

2) *Purpose of the Bill*. This bill is based on two contentions: first, that utility rates are high and growing ever higher; second, that state policy can influence utility rates. Hence, this bill proposes a process to produce greater information on prospective policies on bills.

There is broad consensus that rate increases will continue as California utilities continue to adapt to the changing society they serve, including the effects of climate change, as well as policies intended to respond to climate change. For electricity in particular, it is uncertain how fast electrification, which broadens the base of ratepayers and their use of electricity, will mitigate the accelerating costs of serving customers. In the face of this challenge, creating new programs to meet climate and energy goals that are funded through rates is becoming increasingly burdensome to ratepayers. Over the last few years, many mandated programs have added significant additional costs to rates. These include wildfire mitigation, wildfire response, electric grid hardening, transmission costs, transportation electrification, and decarbonization efforts, among others. In this regard, it is increasingly important for the Legislature to know and understand proactively the cost impact of legislative proposals that come before its respective committees. However, with tight legislative timelines, it remains difficult for committees to do more detailed estimates of cost impact of these legislative proposals on ratepayers. As such, creating a third-party review process that can provide cost estimates of policies that would impact rates for legislators has merit.

3) *Who Should Conduct the Legislative Analysis?* This bill authorizes the University of California, Berkeley, to prepare a written analysis for a measure affecting electrical corporations before the measure is heard before a committee. The author of the bill specifically selected UC Berkeley because of its affiliation with California Health Benefits Review Program (CHBRP), which evaluates the medical effectiveness, cost impact, and health impact of legislative proposals related to health insurance benefits for the Legislature.

   While this reason seems to be logical, selecting only one UC specific campus may limit the perspectives of the intended outcomes of this legislation. It is also unclear if UC Berkeley, or an entity within the University of California system like the Energy Institute at the Berkeley Haas School of Business, is willing and able to take on this work. Expanding the jurisdiction of the research entity to make it UC-wide encourages diversity through inclusion of other UC campuses. The University of California Energy Institute is a multi-campus research unit of the University of California, based at the UC Berkeley Haas School of Business. Established in 1994 and housed on Berkley campus, the Energy Institute is a UC-wide institution that educates policymakers on energy issues that are crucial to the future of California. The Institute is known around the world for its contributions to questions related to environmental and energy economics.

   Alternatively, the Committee could revisit the framework originally created by AB 1083 (Chapter 818, Statutes of 2019) that authorized the California Council on Science and Technology (CCST) to complete an analysis of the impacts of legislation on specified topics related to energy. CCST convenes experts from California's academic and research institutions to provide impartial advice and analysis in response to requests from the Governor, Legislature and other State entities on policy issues affecting the State of California relating to science and technology.[12] CCST is operated as a 501(c)(3) nonprofit governed by a Board of Directors composed of representatives from academic institutions, the corporate and business community, as well as from the philanthropic

[12] CCST, "About CCST"; https://ccst.us/about-ccst/ Accessed March 2024

community. Its core funding is provided by higher-educational institutions, research centers and national laboratories. While CCST was unable to produce analysis under the prior, now sunset, process created by AB 1083 due to a lack of funding, this bill would provide funding from the shareholders of IOUs, thus solving that prior problem. *As such, the author and committee may wish to consider striking the provision in the bill authorizing the CCST as the designated research entity for legislative analysis and instead transfer the designated responsibilities of this bill to the CCST*.

4) *Funding Source*. As currently drafted, this bill would be funded by the shareholders of large IOUs and not ratepayers. However, any new charge on individuals or businesses that does not fall under one of specified exemptions in the California Constitution (Section 3 of Article XIII A - Tax Limitation) is legally considered a new tax. In that regard, this bill imposes a new tax requiring approval by 2/3 of each house of the Legislature. The money collected from the IOUs will be deposited into a new account at the Regents of the University to support the work of this legislation.

   However, not all California ratepayers are bundled customers that are fully served by IOUs. Some receive unbundled service from a community choice aggregator (CCA) or electric service provider that is transmitted over the network of, and billed to the customer by, an IOU. Others are customers of publicly owned utilities. Nevertheless, this bill would create a mechanism to provide the Legislature with analysis on the costs of prospective legislation for all ratepayers — beyond simply those of the IOUs whose shareholders would be funding this analysis.

5) *Clarifying Roles*. The intent of this bill is that the designated entity will provide expert analysis and data that will assist lawmakers in determining whether mandating a particular program or requirement is or is not in the ratepayer's interest. While such analyses would produce scientific data and evidence, policy decision-making remains the responsibility of the Legislature. *Therefore, the author and committee may wish to consider striking references to the designated entity opining on the appropriateness of policies, making it clear that such policymaking decisions are reserved for the Legislature.*

   Similarly, the bill as currently drafted, appears to try to bind the actions of a future composition of the Legislature. The analysis of these bills is meant for informational purposes only and not to dictate how the Legislature acts on a proposal. *For this reason, the committee may wish to consider striking references to how a future Legislature may or may not act based on the analyses this bill would provide.*

6) *Prior Legislation*

   AB 2765 (Santiago, 2022) would have 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: Held under submission in the Assembly Committee on Appropriations.

AB 205 (Committee on Budget) among its many provisions, provided an additional $1.2 billion to cover outstanding energy utility arrears accrued during the COVID-19 pandemic, and made other programmatic changes. Status: Chapter 61, Statutes of 2022.

SB 1203 (Becker, 2022) declares the intent of the Legislature that state agencies aim to achieve zero net emissions of GHGs resulting from their operations no later than January 1, 2035; requires each state agency to develop and publish a plan that describes its current GHG inventory, its planned actions for achieving net zero emissions, and an estimate of the costs associated with the planned actions, as specified. Status: Chapter 61, Statutes of 2022.

AB 135 (Committee on Budget) provided over $2 billion in relief for customer energy debt accrued during the pandemic. Status: Chapter 85, Statutes of 2021.

AB 1083 (Burke) requested the California Council on Science and Technology, if the Council determines it has sufficient funds, to undertake and complete an analysis of the effects of legislation proposing to mandate procurement of electricity products, upon request. Status: Chapter 818, Statutes of 2019.

AB 67 (Levine) requires the CPUC to prepare a written report on the costs of programs and activities conducted by the four major electric and gas companies regulated by the CPUC. Status: Chapter 562, Statutes of 2005

AB 1996 (Thomson) requested the University of California to prepare a written analysis with relevant data on the medical, economic, and public health impacts of such proposed legislation, which then became the California Health Benefits Review Program (CHBRP). Status: Chapter 795, Statutes of 2002.

REGISTERED SUPPORT / OPPOSITION:

Support

San Diego Gas and Electric

Opposition

None on file.

Analysis Prepared by: Lina V. Malova / U. & E. / (916) 319-2083