

Date of Hearing: June 19, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

SB 1210 (Skinner) – As Amended April 22, 2024

SENATE VOTE: 33-5

SUBJECT: New housing construction: electrical, gas, sewer, and water service: service connection information

SUMMARY: Requires electrical, gas, sewer, and water service utilities – both public and private – to post fee schedules and estimated timeframes for new service connections and capacity upgrades needed to connect new housing construction projects. Exempts certain special districts from the requirements due to a showing of hardship.

EXISTING LAW:

- 1) Establishes and vests the California Public Utilities Commission (CPUC), with jurisdiction over all public utilities. (Article XII of the California Constitution)
- 2) Defines “public utilities” to be private corporations and persons that own, operate, control or manage a line, plant, or system for the transmission, or furnishing of heat, light, water, power, or storage, directly or indirectly to or for the public, and common carriers, subject to the control of the Legislature. (Article XII, Section 3, of the California Constitution)
- 3) Includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof. (Public Utilities Code § 216)
- 4) Defines an “electrical corporation” to include every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others. (Public Utilities Code § 218)
- 5) Defines a “gas corporation” to include every corporation or person owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others. (Public Utilities Code § 222)
- 6) Defines “sewer system corporation” to include every corporation or person owning, controlling, operating, or managing any sewer system for compensation within the state. (Public Utilities Code § 230.6)

- 7) Defines “municipal utility district” as a district formed under the Municipal Utility District Act. (Public Utilities Code § 11503)
- 8) Defines a public utility district as a district formed under the Public Utilities District Act. (Public Utilities Code § 15501 et seq.)
- 9) Defines “special district” as any agency of the state established for the local performance of governmental or proprietary functions within limited boundaries. Provides that “special district” includes a county service area, a maintenance district or zone, an air pollution control district, or a redevelopment agency. States that “special district” does not include a city, county, city and county, or school district. (Government Code § 82048.5)
- 10) Requires a local agency when increasing, or imposing a fee as a condition of approval of a development project, on or after January 1, 1989, to take specified actions, including identifying the purpose of the fee. (Government Code § 66000 *et seq.*)
- 11) Requires independent special district to maintain an internet website, unless a majority of the governing board adopts a resolution determining a hardship exists in their ability to establish or maintain a website (such as lack of broadband service). (Government Code § 53087.8)
- 12) Requires cities, counties, and special districts to post fee schedules, exactions, and affordability requirements on their internet websites, as specified. (Government Code § 65940.1)
- 13) Requires local agencies to evaluate the amount of the fee or capacity charge prior to levying a new fee or charge, and requires supporting evidence used in the evaluation be made publicly available, as specified. (Government Code § 66016.6)
- 14) Establishes guidelines for the design, cost allocation, and responsibilities of a project applicant and a utility for electric distribution line extensions necessary to furnish permanent electric service. (Electric Tariff Rule 15)
- 15) Establishes guidelines for the design, cost allocation, and responsibilities of a project applicant and a utility for the extension of electric service from an investor-owned utility (IOU) distribution line. (Electric Tariff Rule 16)
- 16) Establishes guidelines for design, cost allocation, and responsibilities of a project applicant for water service from an investor-owned water utility. (Water Service Tariff Rule 15)

FISCAL EFFECT: Unknown. This measure has not received a fiscal committee hearing, due to a determination by the Senate Committee on Appropriations, pursuant to Senate Rule 28.8, that the cost of implementing this bill is not significant.

BACKGROUND:

The Utility Universe – Californians receive their utility service through a variety of public or private utility providers, some with elected governing bodies, some with appointed regulators,

and some with a hybrid structure. These utilities also range in size and service territory, from very small rural water companies serving less than a few hundred people over a small area¹ to very large electric utilities serving millions of people over tens of thousands of square miles.² Customer service and communication across these disparate utilities can vary. Likewise the rules governing how utilities not only communicate with, but respond to, customers can vary either due to statute, regulation, or self-imposed decisions. Some of these utilities include:

Electric and gas utilities – California residents are served by over 80 electric and gas utilities,³ including publicly owned utilities (POUs), investor-owned utilities (IOUs), rural cooperatives, and community choice aggregators.⁴ Some utilities are hybrid, offering both gas and electric service; while others are exclusive to one type of energy. For the most part, these utilities are not subject to competition, except at retail; meaning they have exclusive rights or agreements to operate within a given territory.

Water utilities – California residents are served by an estimated 2,800 water providers of various types of water utilities or water systems, including POU, IOU, and small community water systems. Nearly half of these systems (roughly 1,100 water providers) provide water to fewer than 200 customer service connections. The majority of California's residential water customers are served by cities, special districts, and mutual water companies. Water companies, which are separate entities and subject to CPUC regulatory oversight, provide water service to about 16% of California's residents. The majority of the CPUC-regulated water utilities (92) have 2,000 or less customer service connections, and 87 of those have service connections of 500 or less. As with other IOUs, the CPUC regulates rates of the water utilities under its jurisdiction to ensure costs are just and reasonable. As with electric utilities, water utilities have similar service connection and capacity upgrade tariffs, in this case Water Service Tariff Rule 15.

Publicly owned utilities – POU are subject to differing constraints on their ability to collect rates for rate relief from one customer to another. These utilities are not subject to economic regulation by the CPUC, but are instead governed by the city council, or other local governing body, which set their own rates. Both Proposition 218 and Proposition 26 limit the ability of the local agencies to collect costs from a customer to fund activity by another customer, with specified limitations. These Propositions require a cost-of-service only model for POU services, and require that the service for which a fee or charge is imposed must be immediately available to the property owner, rather than for future or potential use. As a result, these entities have limitations, not imposed on the CPUC-regulated utilities that may hinder their ability to increase rates to fund programs or provide rate relief to customers.

¹ Class D Water Companies, for instance, serve less than 500 connections. <https://calwaterassn.com/about-cwa/regulated-water-utilities-in-california/>

² Pacific Gas and Electric Company, for instance, serves approximately 16 million people throughout a 70,000 square mile service area. <https://www.pge.com/en/about/company-information/company-profile.html#:~:text=Fast%20facts%20about%20PG%26E&text=The%20company%20provides%20natural%20gas,in%20northern%20and%20central%20California.>

³ Number is not inclusive of Electric Service Providers or Transmission Operators which are technically defined as electrical utilities as well.

⁴ CEC list, accessed on 06.16.2024; https://www.energy.ca.gov/sites/default/files/2023-09/California_Electric_Load-Serving_Entities_ADA.xlsx

CPUC-regulated utilities – Rules governing the ability of new buildings and generation and storage resources to connect to the electric and gas distribution grid are generally determined by statute, CPUC rules, and tariffs. These service connections include extensions or expansions of distribution infrastructure to service new or expanded customer load, known as “energization.” Electric Tariff Rules 15 and 16 establish the guidelines for design, cost allocation, and responsibilities of a project between applicant and a utility for electric distribution line extensions. The ability to connect to the larger electrical system can take many months as the process can entail the need for designs, assessments on costs allocations, and other issues. In the case of new building developments, depending on the size of the development, the need for electric service extensions may be needed in phases over months or years.

Mitigation Fee Act – When approving development projects, counties and cities can require the applicants to mitigate the project's effects by paying fees – known as mitigation fees, impact fees, developer fees, connection fees, and capacity charges. The California courts have upheld impact fees for sidewalks, parks, school construction, and many other public purposes. Connection fees and capacity charges are one-time fees assessed on new customers that reflect the reasonable cost of providing service. Connection fees are assessed when utilities physically connect a structure to their system; capacity charges are assessed to cover the proportional cost of maintaining or constructing system wide infrastructure necessary to meet additional demand brought by new users of the system. The Mitigation Fee Act governs these fees, but state law provides separate provisions related to their oversight and accounting. The Mitigation Fee Act generally applies a broad “reasonable relationship” standard to fees and exactions, meaning that fee amounts must be reasonable relative to the impacts of the project. When a local agency imposes fees or charges, the fees or charges cannot exceed the estimated reasonable cost of providing the service without a 2/3 vote.

Study on development fees for new housing construction – The Turner Center for Housing Innovation at UC Berkeley authored a study, *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities* (March 2008), on the various fees imposed on new housing construction. The study notes that these fees make up a significant portion of the costs to build new housing in California. The study states that on average these fees continue to rise, while nationally fees have decreased. The authors found that development fees for multifamily housing range from a low of \$12,000 per unit in Los Angeles, to \$75,000 per unit in Fremont. Fees for single family housing range from \$21,000 per home in Sacramento to \$157,000 per home in Fremont. They found that fees can amount from 6%-18% of the median home price depending on the location. The wide range of these fees are largely due to differences in locally-assessed, rather than state- or utility-assessed, fees.

COMMENTS:

- 1) *Author's Statement.* According to the author, “California is in desperate need of more housing, and particularly more affordable housing. Hook-up fees for electric, gas, sewer, or water service can add tens of thousands of dollars to the cost of each new housing unit. The final cost often comes as a surprising shock, as the fees charged by various utilities are rarely disclosed in a publicly available form and are difficult for the builder of the housing unit, whether a home owner or developer, to determine in advance. Timelines for the utility's completion of the work can also vary widely, with some housing projects having to wait a year or more for service completion. High fees and a lack of

transparency are an ongoing obstacle to housing creation at a time when California is focused on streamlining and other measures to build more housing units. SB 1210 will require utilities to provide clear cost information for their hook-up fees to customers, and require them to inform customers of the estimated service completion date. By increasing transparency and accountability in utility hook-ups, California will incentivize the production of new homes, and increase the affordability of housing state-wide.”

- 2) *Cost Comparisons.* Calls for increased transparency regarding connection charges are not new. AB 602 (Grayson, Chapter 347, Statutes of 2021) placed requirements on local agencies to post fee schedules on their website. While AB 2536 (Grayson, Chapter 128, Statutes of 2022), requires POU's subject to the Mitigation Fee Act to evaluate and publicly post information on the amount and reasoning behind fee amounts. This bill is aligned with these efforts, and may provide more detailed information on connection charges. The author notes that many of these fees, especially those arising from IOUs which have not been the focus of past legislative efforts, can be opaque and difficult to scrutinize. Publicly posting fee schedules may aide developers and homeowners in comparing costs across jurisdictions, or identifying potentials to mitigate some costs.

However, it is likely to cost utilities – especially those that to date have not been required to post fee information – time and money to develop service connection, capacity, and connection charge information for each housing type as called for under this measure. According to the electric IOUs, they do not label requests for service according to housing type; it is either a new connection or an upgrade to an existing customer. This bill would require utilities to develop category labels for these housing types in order to provide associated fees. Such labels may not be uniform across utilities, leading to confusion when the public seeks to compare cost information. Moreover, utility service territory can vary greatly. Utilities often work with customers at an individual level to develop quotes unique to the specific project, location, and load. This bill ignores this subtlety, and instead requires a schedule of fees based only on housing type. This may lead some utilities to provide an average fee value across their service territory for each housing type; while others may further subdivide their fee information based on region or project complications. The bill is unclear, leading to lack of uniformity in the publicly posted information.

As Mark Twain reportedly observed, “the surest way to convey misinformation is to tell the strict truth.” If the desire for the publicly posted data required under this measure – the fee and estimated timeframes for service connections – is to increase public awareness and knowledge of these fees, then having consistency and clarity in how the data are collected and reported is important. Otherwise utilities may report a variety of accurate fee schedules that still provide little useful insight to individual applicants. This bill does not provide such consistency, leading to the potential for information to be so different in its reporting as to be ambiguous or even misleading. *Given these challenges, the committee recommends specifying that the schedule of fees is estimated and represents a typical service connection. The committee also recommends striking the requirement for utilities to report capacity or other point of connection charge information.* While capacity charges are a common term in Government Code,⁵ this bill adds such terms in the Public Utilities Code where “capacity” might mean very specific

⁵ See GOV § 54999.1 (b)

electric upgrades subject to Electric Rules 15 or 21. In most of these circumstances, at least for the electric IOUs, allowances are provided so that customers do not realize a cost with these upgrades. In such circumstances, a publicly noticed fee schedule for costs rarely borne by individual customers may lead to unnecessary confusion.

- 3) *Additional hardships.* This bill provides some exceptions to specified utilities from its requirements to publicly post connection fees and timeframes on a utility's website. Namely, those utilities already required under statute to post a schedule of fees, or independent special districts with such financial hardships that they are not required to maintain an internet website. Other utilities, equally small and without a website, have sought inclusion in this exemption. The author acknowledges all Californians deserve fee information for their local utility, however to mandate such public notice on utility websites for utilities that do not even own or maintain an internet presence is outside the scope of this bill. *As such, the committee recommends the hardship exemption in §8401(b) be expanded from just independent special districts to any small utility that annually demonstrates a hardship.*

- 4) *Prior Legislation.*

AB 50 (Wood) required the CPUC, by July 1, 2025, to determine the criteria for customers to receive timely electricity service when requesting new service connections or upgraded service, known as "energization." The bill proposed several policies to address delays in connecting customers to the electrical grid, including improved information sharing with local governments, reporting by electric IOUs, and other measures. Status: Chapter 317, Statutes of 2023.

SB 410 (Becker) required the CPUC to establish by September 30, 2024, reasonable average and maximum target energization time periods in order to connect new customers and upgrade the service of existing customers to the electrical grid. The bill also required reporting by electrical corporations and authorizes specified annual cost-recovery, subject to a cap. Status: Chapter 394, Statutes of 2023.

AB 2536 (Grayson) required local agencies to evaluate and show specified evidence when imposing or increasing connection fees and capacity charges, and excludes school districts from certain nexus study requirements. Status: Chapter 128, Statutes of 2022.

AB 602 (Grayson) required, among its provisions, a city, county, or special district that has an internet website to post and update on their websites specified information, including a current schedule of housing development project costs, zoning ordinances and development standards, annual impact fee reports, and an archive of specified impact fee nexus studies. Status: Chapter 347, Statutes of 2021.

AB 1026 (Wood) required an electrical or gas corporation to apply only those construction and design specifications, standards, terms, and conditions that are applicable to a new extension of service project for the 18 months following the date the application for a new extension of service project is approved. Authorized an electrical or gas corporation to adopt modifications, as specified, of the construction and design specifications, standards, terms, and conditions of a new extension of service project. Status: Chapter 446, Statutes of 2019.

AB 1600 (Cortese) required a local agency when increasing, or imposing a fee as a condition of approval of a development project, on or after January 1, 1989, to take specified actions, including identifying the purpose of the fee. Status: Chapter 927, Statutes of 1987.

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

REGISTERED SUPPORT / OPPOSITION:

Support

California Yimby
East Bay Housing Organizations
Housing Action Coalition
Leadingage California
People for Housing - Orange County
Resources for Community Development

Oppose

Pacific Gas and Electric Company and Its Affiliated Entities

Oppose Unless Amended

El Dorado Irrigation District
Palmdale Water District

Other

Association of California Water Agencies (ACWA)
California Association of Mutual Water Companies
California Association of Sanitation Agencies
California Municipal Utilities Association
California Special Districts Association
California Water Association
California-Nevada Section, American Water Works Association
Desert Water Agency
Inland Empire Utilities Agency
New Livable California Db a Livable California
Walnut Valley Water District

Analysis Prepared by: Laura Shybut / U. & E. / (916) 319-2083