

Date of Hearing: April 2, 2025

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

AB 737 (Quirk-Silva) – As Introduced February 18, 2025

SUBJECT: Energy: building decarbonization: notice and recordation of a decarbonization charge

SUMMARY: Requires gas corporations to provide notification of any utility charges associated with a property – usually for an energy efficiency upgrade – for new tenants or homeowners to review. These charges would be a financial obligation on the new tenant or homeowner.

EXISTING LAW:

- 1) Establishes requirements for notifications that electric utilities must provide when adding a decarbonization charge as part of a program financing energy efficiency upgrades to an existing property. Specifically declares that energy suppliers recording notices of decarbonization charges does not constitute debt collection. (Public Utilities Code §§ 8375-8377)
- 2) Creates a charge on electricity and natural gas consumption to fund cost-effective energy efficiency and conservation activities. (Public Utilities Code § 381 and § 890)
- 3) Requires the California Public Utilities Commission (CPUC) to identify all potentially achievable, cost-effective electricity and natural gas efficiency savings and establish energy efficiency targets and ratepayer-funded programs for investor-owned utilities (IOUs). Gas corporations must first meet its unmet resource needs through all available natural gas efficiency and demand reduction resources that are cost effective, reliable, and feasible. (Public Utilities Code § 454.55 and § 454.56.)
- 4) Requires the CPUC to authorize an IOU to provide incentives for the cost of energy efficiency programs based on all estimated energy savings, including energy savings from bringing existing buildings into compliance with mandatory energy efficiency codes for existing buildings issued by the California Energy Commission (CEC), and authorizes an IOU to recover the costs in rates. (Public Utilities Code § 381.2)
- 5) Establishes the Building Initiative for Low-Emissions Development (BUILD) program by requiring the CPUC to provide incentives to eligible applicants for the deployment of near-zero-emission building technologies to significantly reduce the emissions of greenhouse gases (GHG) from those buildings below the minimum projected emissions that would be achieved through building codes. Existing law authorizes the CEC to serve as the BUILD program's third-party administrator. (Public Utilities Code § 921)
- 6) Establishes the Technology and Equipment for Clean Heating (TECH) program by requiring the CPUC to direct gas corporations to provide incentives for the installation of low-emission space and water heating equipment in new and existing buildings. Existing law authorizes the CEC to serve as the TECH program's third-party administrator. (Public Utilities Code § 922)

- 7) Requires the CEC to publish by January 1, 2017, a study on low-income Californians' barriers to energy efficiency and weatherization investments and make recommendations on how to address these barriers. (Public Resources Code § 25327)
- 8) Requires the CEC to assess and report by January 1, 2021, on California's potential to reduce GHG emissions in the state's residential and commercial building stock by at least 40% below 1990 levels by January 1, 2030. Existing law requires this report to include specified assessments, including an assessment of potential ratepayer impacts and challenges associated with reducing GHG emissions from certain housing sectors. (Public Resources Code § 25403)

BACKGROUND:

Fusing split incentives – As California aims to decarbonize the retail delivery of electricity by the year 2045, as articulated in Senate Bill 100 (De León, Chapter 312, Statutes of 2018) and SB 1020 (Laird, Chapter 361, Statutes of 2022), many of the state's economy-wide policies¹ rely on electrifying otherwise fuel-intensive sectors such as transportation or housing. This bill principally focuses on decarbonizing the housing sector through financing strategies to make costly upgrades more approachable. The decarbonization upgrades present in this bill include rooftop solar panels, electric water heaters, in-home batteries, electric vehicle charging equipment, better insulation, and many other improvements. However, one of the key barriers to building decarbonization efforts is the split incentive gap – where landlords pay for the building energy efficiency upgrades, while the tenants benefit from lower energy costs. Various financing strategies seek to encourage investment by targeting the split incentive gap, such as having a charge associated with a customer meter that slowly pays for the cost of the improvement (initially paid by the utility), rather than the homeowner or tenant paying the cost in an initial lump sum.

Financing through customer charges has been suggested to help incentivize adoption of decarbonization upgrades in rental units and in multi-family buildings. In these properties, split incentives are common; this occurs when the property owner doesn't experience ratepayer benefits, such as lower utility bills, associated with the upgrade; and the renter can't authorize upgrades or obtain some of the financial incentives from upgrade programs like rebates. In cases of strong split incentives, the CEC has identified significant barriers to incentivizing energy efficiency and distributed energy resource (DER) upgrades.² In the Clean Energy in Low-Income Multifamily Buildings Action Plan, the CEC noted that these upgrades can require large upfront

¹ As dictated in Governor Brown, Executive Order B-55-18 to Achieve Carbon Neutrality, September 10, 2018, <https://archive.gov.ca.gov/archive/gov39/wp-content/uploads/2018/09/9.10.18-Executive-Order.pdf> and AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022)

² California Energy Commission. *Low-Income Barriers Study, Part A: Overcoming Barriers to Energy Efficiency and Renewables for Low-Income Customers and Small Business Contracting Opportunities in Disadvantaged Communities*. December 2016.

costs for building-wide upgrades, and multifamily properties can have more complex ownership systems that pose challenges to linking investments to rates from customers' meters.³

Getting TOB billing – This bill contemplates a specific type of decarbonization arrangement called Tariff On-Bill (TOB), or synonymously, Tariff-Based Recovery (TBR). In these arrangements, upgrades are paid via a charge that is added to the customer bill associated with one or more electrical meters (or other measuring devices). If the customer relocates, the charge is transferred to any successor who receives electrical service at that location.

TOB is an opt-in tariff that allows renters and property owners to have improvements made without any out-of-pocket expenses or incurring any debt. In this mechanism, the utility finances qualifying projects, usually using its own capital.⁴ When the utility uses its own capital, the investment in the energy performance of homes and buildings is recognized as a system reliability investment and the utility utilizes its authority to add tariffs (i.e., charges) to customer bills as the collection mechanism. A tariff is not categorized as a loan to the customer; therefore, it does not add to the debt profile of the property owner in the way that a bank loan would. TOB repayment can be an attractive option for lower-income consumers to finance upgrades because the process can enable consumers with limited credit history to obtain upgrades without qualifying for a loan or providing significant up-front cash. However, TOB financing repayment obligations generally stay with an address, and only recent statutory⁵ changes have required notifications to raise awareness for renters and homebuyers that these obligations exist at the specified properties before buying or renting. Critically these statutory protections only apply to electric utilities; no such statutory protection exists for natural gas utility programs.

No notice required – There are other financing options that do result in a charge on a customer's utility bill but would not trigger the notification requirement detailed in this bill or existing statute⁶ because the charge is not transferrable to the next customer at the property. On-Bill Financing (OBF) is an arrangement where a utility uses ratepayer funds to provide the upfront capital for an upgrade which is then repaid through a fixed monthly installment on the customer's utility bill. In cases in which a third-party lender provides the up-front funds for the improvement and the utility collects repayment on the customer's utility bill, the mechanism is called On-Bill Repayment (OBR). With OBF and OBR, the *customer* is responsible for the loan and it is not tied to a utility meter or building. Each of the three large IOUs in California administers an OBF program, limited to energy efficiency upgrades. In these programs, if the customer closes a utility account or moves, then the customer is required to pay off the loan. If the customer can't pay the loan, it must settle the debt with the utility, but no successor building owner or tenant owes that loan.

³ California Energy Commission. *Clean Energy in Low-Income Multifamily Buildings Action Plan*. August 2018.

⁴ Some financial arrangements permit using third-party investment capital

⁵ SB 1112 (Becker, Chapter 834, Statutes of 2022)

⁶ Public Utilities Code §§ 8375-8377

Regulatory Action to Date – The CPUC has a long history of utilizing electricity and natural gas ratepayer funds to encourage customers to invest in energy-related equipment, including equipment that this bill classifies as decarbonization upgrades. The Clean Energy Financing (CEF) proceeding, or rulemaking proceeding (R. 20-08-022), is designed specifically to examine financing options that encourage larger-scale and deeper investments in one or more clean energy resources at customer sites. The CPUC notes that financing strategies will become increasingly important as California pursues its climate goal, particularly relying on electricity to decarbonize transportation and housing.⁷

As part of the CEF proceeding, the CPUC identified multiple energy efficiency financing options, including TOB financing and on-bill repayment.⁸ In November 2021, the CPUC ordered the IOUs – including natural gas IOU, Southern California Gas (SoCalGas) – to file proposals for new/and or expanded CEF options by April 2022.⁹ In 2022, the Legislature adopted SB 1112 (Becker, Chapter 834, Statutes of 2022) which required specified notifications for properties obligated with TOB arrangements. In August 2023, the CPUC issued Decision 23-08-026 to expand the existing non-residential IOU OBF programs to support projects beyond energy efficiency.¹⁰ The decision also required Pacific Gas and Electric, Silicon Valley Clean Energy Authority, Southern California Edison, San Diego Gas & Electric, and SoCalGas (the “Joint Filers”), to “establish a TOB working group within 45 days after the issuance” of the decision and to “file a joint finalized TOB Proposal...within 270 days” from the date of the decision.¹¹ On May 14, 2024, the Joint Filers submitted their TOB proposal which recommended two-year pilots to “test the viability and the efficacy of the TOB model in California.”¹² The TOB pilot proposals included notification provisions in keeping with SB 1112 (Becker, 2022), as well as a letter sent by the participating utility to the new customer outlining the benefits and obligations of the TOB that applies to the location.¹³ SoCalGas’s TOB Pilot Proposal was inadvertently not included, and filed a few days later;¹⁴ their proposal, while not directly implicated in SB 1112 still adhered to the notification requirements of electric IOUs in statute. As of December 2024,

⁷ Pg. 2, CPUC, *Order Instituting Rulemaking to Investigate and Design CEF Options for Electricity and Natural Gas Customers*; R. 20-08-022; September 4, 2020;

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M346/K361/346361154.PDF>

⁸ California Public Utilities Commission. *Order Instituting Rulemaking to Investigate and Design Clean Energy Financing Options for Electricity and Natural Gas Customers*. (R.) 20-08-022. September 4, 2020.

⁹ CPUC, *Assigned Commissioner’s Amended Scoping Memo and Ruling*, R. 20-08-022, November, 19, 2021; <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M424/K114/424114102.PDF>

¹⁰ CPUC, Decision 23-08-026; *Decision on Clean Energy Financing Proposals*; R. 20-08-022, August 18, 2023; <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M517/K717/517717993.PDF>

¹¹ Ordering paragraphs 9&10; pg. 121, *Ibid*, D. 23-08-026

¹² Pg. 10, Joint Filers; *Joint Proposal for a Tariff On-Bill Site-Specific Investment Pilot*, May 14, 2024; <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M531/K700/531700925.PDF>

¹³ Pg. 29-30, Joint Filers, *Ibid*.

¹⁴ Ismael Bautista, Jr.; *SoCalGas (U 904 G) Notice of Errata on Joint TOB Proposal*, R. 20-08-022; May 22, 2024; <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M532/K849/532849407.PDF>

the CPUC was still in the “process of reviewing the proposals.”¹⁵ The committee is unaware of any TOB pilots underway.

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

CONSUMER COST IMPACTS: Unknown, likely negligible.

COMMENTS:

- 1) *Author’s Statement.* According to the author, “AB 737 is about making clean energy accessible to all Californians. The fight for a sustainable future is not just about reducing emissions but ensuring affordability and equity. By leveling the playing field for gas and electric utilities, this bill removes the barriers that prevent families and businesses from lowering their energy costs while building a cleaner, more resilient California for generations to come.”
- 2) *Purpose of Bill.* SoCalGas, while subject to the CPUC’s order to file TOB pilots, is not subject to the notification requirements in statute for TOB programs. Moreover, gas utilities are not included in the legislative declaration that such TOB programs do not constitute debt collection. During the discussion of SB 1112 (Becker, 2022), some IOUs brought forward the concern that the recording of the TOB notice requirement would lead to an energy supplier possibly being construed as a “debt collector” and then subject to an array of additional licensing laws and obligations that are applicable to banks and other “debt collectors,” but well outside an IOU’s business. This Committee, in consultation with the Assembly Committee on Banking, established statutory clarification that the TOB notification requirements are not secured by the property and therefore do not constitute a debt collection. This bill subjects gas utilities to both the statutory TOB notification requirements as well as the statutory no-debt-collector protections. This seems a prudent and timely inclusion as the CPUC is currently reviewing outstanding TOB pilots, including from gas utilities.

3) *Prior Legislation.*

SB 1112 (Becker) establishes requirements for notifications that electric utilities must provide when adding a decarbonization charge as part of a program financing energy efficiency upgrades to an existing property. Status: Chapter 834, Statutes of 2022.

SB 31 (Cortese, 2020) would have required the CEC to fund the development and deployment of building decarbonization technology through the Electric Program Investment Charge (EPIC) program. Status – held in the Senate Appropriations Committee.

¹⁵ Pg. 4, CPUC, Decision 24-12-049, *Order Extending Statutory Deadline*; R. 20-08-022; December 23, 2024; <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M550/K481/550481344.PDF>

SB 1477 (Stern) required the CPUC to establish and allocate funding for the BUILD and TECH programs to deploy low and zero-emission building decarbonization technologies. Status: Chapter 378, Statutes of 2018.

AB 3232 (Friedman) required the CEC to develop a plan to ensure that all new residential and nonresidential buildings are zero-emission buildings. The bill also required the CEC to develop a strategy to reduce GHG emissions from existing buildings 40 percent below 1990 levels by 2030. Status: Chapter 373, Statutes of 2018.

SB 564 (McGuire) authorized specified joint power authorities to provide funding for water efficiency improvements while establishing a cost recovery agreement in the form of on-bill payments associated with the meter at the customer property. The bill also required notice of the efficiency charge to be recorded with the county recorder as specified. Status: Chapter 430, Statutes of 2017.

SB 350 (De León) increased California's Renewable Portfolio Standard procurement goals and required the CEC to develop targets to double energy efficiency savings from electric and natural gas end uses. The bill also required the CEC to study low-income communities' barriers to energy efficiency investments. Status: Chapter 547, Statutes of 2015.

REGISTERED SUPPORT / OPPOSITION:**Support**

Southern California Gas Company

Opposition

None on file.

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