Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Eduardo Garcia, Chair
AB 1710 (Ta) – As Amended March 23, 2023

**SUBJECT**: Electrical corporations: rates

**SUMMARY**: Prohibits an investor-owned utility (IOU) from proposing a rate increase above the rate of inflation, unless the utility holds an election of its customers, as specified, and the majority of voting customers approve the rate increase; or the California Public Utilities Commission (CPUC) approves the rate increase pending the CPUC's determination that the costs leading to the increase are directly related to safety enhancements, modernization, or higher commodity or fuel costs.

**EXISTING LAW**:

1) Requires that all charges demanded or received by any public utility for any product, commodity or service be just and reasonable, and that every unjust or unreasonable charge is unlawful. (Public Utilities Code § 451)

2) Requires the CPUC to establish rates using cost allocation principles that fairly and reasonably assign to different customer classes the costs of providing service to those customers, consistent with the policies of affordability and conservation. (Public Utilities Code § 739.6)

3) Requires the CPUC to ensure that any errors in estimates of demand elasticity or sales do not result in over or undercollections by the IOUs. (Public Utilities Code § 739.10)

4) Mandates the CPUC develop a definition of energy affordability, and use the definition to assess the impact of proposed rate increases on different types of residential customers, among other requirements. (Public Utilities Code § 739.13)

5) Declares the legislative intent that the CPUC reduce rates for electricity and natural gas to the lowest amount possible. (Public Utilities Code § 747)

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

**BACKGROUND**:

*Heading Towards Unaffordability: Trends in Electricity Rates Over the Last Decade.* Across all three large Californian IOUs,[1] electric rates have increased since 2013.[2] The growth in rates can

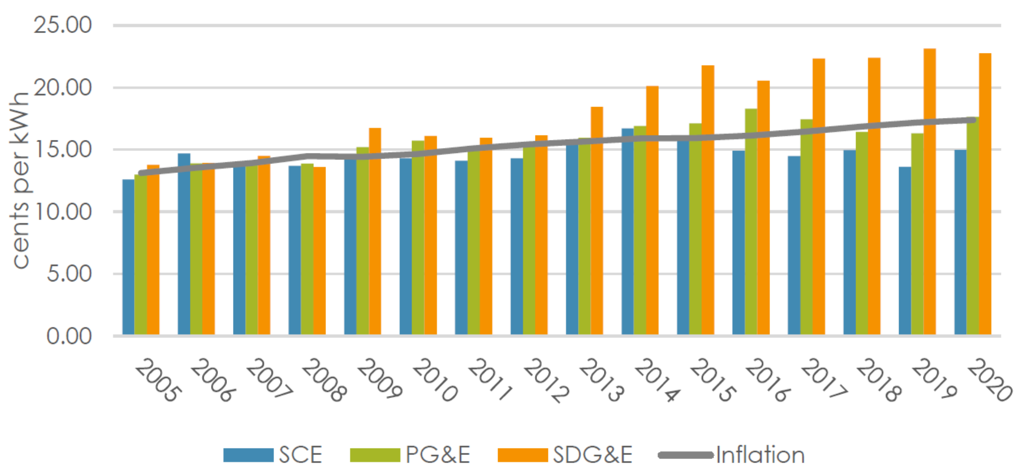
---

[1] Pacific Gas & Electric (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E)

be largely attributed to increases from infrastructure projects.[3] The utilities have also made major financial commitments to wildfire mitigation and transportation electrification, but these costs only began to be reflected in rates starting around 2021.[4]

As shown in Figure 1, for almost the last decade the electricity rates[5] of the utilities have not tracked with inflation. Beginning in 2009, SDG&E's rates have risen above the Consumer Price Index, while SCE's and PG&E's have vacillated above and below. Comparing rates to inflation is a common metric of energy affordability. Household incomes are generally expected to increase at the rate of inflation, so rates outpacing inflation suggests energy bills will become less affordable over time.

***Figure 1*** **-** Electric Total System Average Rates (2005-2020)[6]




This historical increase in average rates persists even when broken into each customer class. For all three IOUs, each customer class shows the same upward trend as the system average rate over this period, with residential and small business customers generally bearing the greatest impact of this increase.[7]

More concerning, the historical increase in rates relative to inflation is projected to worsen rapidly. As shown in Figure 2, starting around 2020 rate increases across the large IOUs steeply increased and are projected to remain at sustained or growing levels. Figure 2 demonstrates that by 2025 the average residential rate is forecast to be higher by approximately 60% for PG&E, 25% for SCE, and 70% for SDG&E than they would have been if 2013 rates for each IOU had

---

[2] Bundled system average rate; by 37% for PG&E, 6% for SCE, and 48% for SDG&E. Pg. 7; "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.

[3] transmission by PG&E and distribution by SCE and SDG&E; *Ibid.*

[4] Pg. 13, CPUC, *2022 Senate Bill 695 Report*, May 2022

[5] Total System Average Rates, which reflect total authorized revenue requirement and total forecasted sales for both bundled and unbundled customers.

[6] Pg. 9, CPUC "2020 California Electric and Gas Utility Costs Report – AB 67 Annual Report to the Governor and Legislature," April 2021.

[7] Pg. 14-16, "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

grown at the rate of inflation.[8] This calculation was performed using a 2021 inflation projection for 2023-2025 of 2.4%; however, the last two years have shown an annual inflation rate between 4.5% and 8%,[9] which would lead to the projected electric rate diverging less from the inflation-adjusted rate.

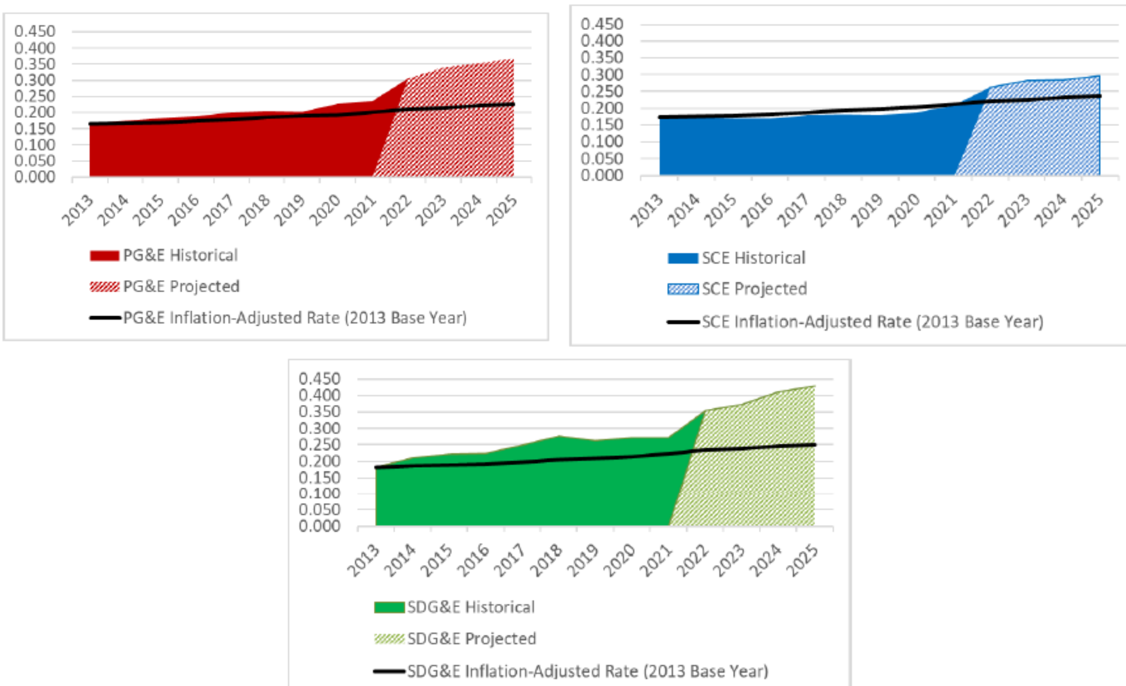



***Figure 2:*** Bundled Residential Average Rates, Nominal Historical and Projected with Inflation-Adjusted Comparison ($/kWh) – PG&E (top left, red); SCE (top right, blue); SDG&E (bottom middle, green)[10]

Nevertheless, while understanding *rates* is important, tracking actual *bills* is a better measure of affordability. California bills have typically been lower than most of the country, due to our mild weather (in parts) and energy efficiency measures creating less usage, but those trends are changing too. In 2019, both PG&E and SCE saw their bundled residential average monthly bill rise in nationwide rankings of 200 IOUs. SDG&E was the exception, with its monthly bill ranking lower, even though its rate is persistently among the top 20 highest.[11]

While the current high electric bills experienced by California customers raise concern, the projection of future rate impacts on bills are more troubling. By 2030, bundled residential rates are forecasted by the CPUC to be much higher than they would have been if 2020 rates had

[8] Inflation calculation performed in mid-2022, using projected rate inflators from US Congressional Budget Office's "Update to the Budget and Economic Outlook: 2021 to 2031" (July 2021, pg. 4), consumer price index for all urban consumers.
[9] April 20, 2023; Statista Research Department; https://www.statista.com/statistics/244983/projected-inflation-rate-in-the-united-states/
[10] Pg. 14-15, CPUC, *2022 Senate Bill 695 Report*, May 2022
[11] Pg. 11, "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.

grown at the rate of inflation.[12] These forecasts largely attribute this increase to capital expenditures (infrastructure build) and wildfire mitigation. However, these forecasts rely on fairly conservative assumptions about future utility expenditures that could underestimate the actual rate increases expected in the future.[13]

As of January 2023, all three IOUs had seen increases to their electric rates, supporting the trends predicted in the forecasts: an approximately 3% increase for PG&E, 7% increase for SCE, and 15% increase for SDG&E.[14] Much of these increases are attributed to ballooning natural gas commodity prices;[15] however a portion of these increases arose from FERC approved transmission costs and wildfire mitigation expenses.

The projected growth in electricity costs over the next decade suggests that many Californian households may struggle with energy affordability. These high rates might make it more expensive for a business to produce goods or discourage adoption of electric vehicles and electric appliances. For customers most acutely impacted by changes to their electricity bills—such as low-income customers, customers in hot climate zones, medically vulnerable customers, or customers in public housing—these higher costs can have dire consequences. Failure to pay electricity bills and the resulting potential for disconnections can lead to critical medical equipment shutting off, the potential for heatstroke during a heatwave, or even the loss to the state of custody of children. Energy shutoffs in California increased by over 50% from 2010-2017.[16] During the first two years of the COVID-19 pandemic, disconnections were suspended; but they have recently been reinstated. In the 2021 and 2022 budgets, the Legislature authorized over $2 billion (combined) in energy debt relief in order to prevent some of these potential disconnections,[17] yet customer debt was only partially covered by these funds.

**COMMENTS**:

1) *Author's Statement.* According to the author, "Section 747 of the Public Utilities Code declares it is the intent of the Legislature that the California Public Utilities Commission lower electricity and natural gas rates to the lowest amount possible. Despite this, Investor Owned Utilities (IOUs) have, since 2013, consistently increased energy prices above the inflation rate, forcing California residents to make difficult decisions about energy usage. IOUs function as state-sanctioned monopolies, resulting in California residents having no choice but to pay regressive and exceptionally high energy bills or

---

[12] approximately 12 percent higher for PG&E, 10 percent for SCE, and 20 percent for SDG&E. Pg. 43, "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.
[13] "…the forecasts generally incorporate known program changes and assume a small escalation factor for remaining activities…"pg. 57, "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.
[14] CPUC Factsheets on IOU electric rates in 2023; received January 12, 2023.
[15] Natural gas commodity prices impact electricity rates by driving up natural gas electric generation costs.
[16] TURN, "Living Without Power: Health Impacts of Utility Shutoffs in California," May 2018, http://www.turn.org/wp-content/uploads/2018/05/2018_TURN_Shut-Off-Report_FINAL.pdf
[17] AB 135, Committee on Budget, Chapter 85, Statutes of 2021 and AB 205, Committee on Budget, Chapter 61, Statutes of 2022.

suffer during extreme weather. AB 1710 would provide California residents the price relief they need and protect them against future rate hikes by restricting IOUs' authority to increase rates above inflation on average unless they obtain support from a majority of customers through a customer election."

2) *Outweighed Electoral Power*. This bill raises the important conversation about electricity affordability, which as demonstrated above, has been trending in a troubling direction in the state. However, it approaches the solution to electricity affordability in an unconventional way: by prohibiting a utility from requesting a rate increase greater than the rate of inflation unless approved by a vote of their customers. Such a structure of requiring direct democracy in rate making is highly unusual, if not unheard of, and potentially violates federal takings law[18] and the basic principle of ratemaking[19]—that is, utilities are authorized a rate which will permit the utility to recover its costs and expenses plus a reasonable return.

   While unconventional, the election proposal in this bill doubly suffers by being impractical in implementation. The joint IOUs, in opposing this bill, have raised concerns about the elections called for under this bill, calling them incredibly expensive and equating their costs to statewide special elections which run into the hundreds of millions of dollars to conduct. While it is laudable the joint utilities foresee any customer election as occurring so comprehensively, no such elections process is required under this bill. Rather, the IOU is required to provide each customer with one ballot and information regarding the proposed rate increase. The rate increase is authorized if a majority of the IOU's *voting* customers approve the increase. The adjective "voting" is critical in this phrasing, because the bill is not requiring a majority of the IOU customers to approve a rate increase, but a majority of those customers that voted.

   Typically, IOUs outreach to their customers in a number of media—from television, radio, and internet advertisements to community engagement events (like booths at a local fair) to physical bill inserts or emails. Historically, customer response rates to physical bill inserts or emails is staggeringly low. For PG&E, which serves approximately 16 million people, with 5.5 million distinct electric customer accounts,[20] the utility has received 9 customer responses to physical bill inserts over the last 4 years. Their customer response rate to email hovers around 2% per month.[21] This bill does not provide the method for IOUs to contact customers when holding an election. The IOUs could send ballots as physical bill inserts to customers, potentially hear back from 4 individuals, and if the majority of those 4 individuals support the rate increase it would be authorized. Presumably, basic ethics would prevent the utility from conducting any required election in such a manner—or the CPUC itself which may set additional rules for the election, per the bill. Nevertheless, such a scenario is possible under this bill, and raises fundamental questions about implementation. *While allowing customers a more*

---

[18] The Takings Clause of the Fifth Amendment to the United States Constitution: "nor shall private property be taken for public use, without just compensation"

[19] As held in *Federal Power Commission et al. v. Hope Natural Gas Co*., 320 U.S. 591, 603 (1944) and *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia ("Bluefield")*, 262 U.S. 679 (1923)

[20] PG&E Company profile webpage; https://www.pge.com/en_US/about-pge/company-information/profile/profile.page; accessed April 20, 2023.

[21] Data request to committee by PG&E, April 20, 2023.

*decisive voice in determining their rates is commendable, the proposal raises fundamental concerns. As such, the author and committee should consider an amendment striking subdivision (b) of the bill, removing any requirement of customer elections.*

3) *Inflation Adjustments.* This bill sets a ceiling to any proposed IOU rate increase to the inflation-adjusted rate. However the bill does not define which metric of inflation would be used. Many measures of inflation exist, and range based on the baseline under observation, from the retail price index to the consumer price index to the wholesale price index, and many more. While the appropriate inflation metric would be best considered by the Banking and Finance Committee, for the purposes of this bill which is intended as an affordability measure, the California Consumer Price Index (CPI) could provide a reasonable reference.[22] The CPUC in general rate cases dating back to 2003 and more recently in 2019[23] has rejected the CPI as an appropriate measure of price changes faced by an electric utility, noting on multiple occasions that CPI does not reflect how "utilities incur costs."[24] However, such a rejection is based on utility costs broadly; and as expanded in the next section, this bill offers broad exceptions to utility spending in an attempt to capture the unique nature of utility cost drivers. So for the purposes of identifying a metric, the CPI seems appropriate as the CPUC uses this index when evaluating IOU rate growth relative to inflation-adjusted rates.[25] *The author and committee may therefore wish to specify the California Consumer Price Index as the inflation metric used under this bill.*

4) *Blanket Exceptions.* The joint IOUs have identified a number of concerns with this bill, chief among them the disconnect between traditional drivers of inflation increases in business—such as labor, purchasing, and borrowing cost, which as they increase statewide or nationally, likely also increase for a specific business—and how utilities typically incur costs for both capital and operational expenditures. The joint IOUs point to the fact that their business model does not track such a linear rate of change. Instead, transitional moments in the utility industry can cause rapid spending—and thus needed rate increases to meet goals—while being out-of-step with the rest of the economy. In recent years, these transitional moments have included renewables procurement and wildfire spending; likely the next transitional moment will be preparing the grid for economy-wide electrification.

   Yet this bill acknowledges these moments where utility spending behavior exceeds a rate of change tied to inflation. Subdivision (d) of the bill authorizes the CPUC to approve a rate increase above the rate of inflation for costs directly related to safety enhancements, modernization, or higher commodity or fuel costs. These blanket exceptions seem to capture many of the drivers to unique utility spending patterns, such as wildfire costs (safety); renewables procurement (modernization); inflation of utility equipment being 50-100% over the last few years, far in excess of national inflation[26] (commodity costs); infrastructure to ready the grid for building and transportation electrification

---

[22] As determined annually by the California Department of Industrial Relations; https://www.dir.ca.gov/oprl/cpi/entireccpi.pdf
[23] D. 19-09-051
[24] D. 19-09-051, D. 15-11-021
[25] See Figure 2 and its citation above.
[26] As reported in the Joint IOU opposition letter filed with this committee on April 10, 2023.

(modernization); and recent exorbitant natural gas prices (fuel costs). These exceptions appear to allow the utility to receive a return on the actual costs needed to operate the utility safely and reliably, while holding all standard costs to the rate of inflation.

If anything, these exceptions may be so liberally applied as to encompass all utility spending, or so narrowly applied as to exclude many fundamental utility functions. The distinction is up to the CPUC to draw, which creates enormous uncertainty for the regulated IOUs, and as a result, even greater uncertainty to their shareholders and bondholders. Such regulatory uncertainty has driven up borrowing costs for the utilities in recent years,[27] and should raise caution when considering attempts to constrain utility spending that do not provide exacting guidance, such as this bill.

5) *Related Legislation.*

AB 982 (Villapudua, 2023) eliminates from electric IOU rates the costs of various programs, except for utility bill discount programs for low-income customers, and instead establishes a Public Utilities Public Purpose Programs Fund (PUPPP Fund) in the State Treasury to fund the programs. Status: *pending hearing* in the Assembly Committee on Appropriations after passage in this committee on March 22, 2023 by a 14-0-1 vote.

AB 1434 (Sanchez, 2023) prohibits the annual salary paid to each public utility commissioner from being funded with revenues collected from a charge imposed on ratepayers. Status: *pending hearing* in the Assembly Committee on Appropriations after passage in this committee on April 12, 2023 by a 15-0-0 vote.

6) *Prior Legislation.*

AB 2765 (Santiago, 2022) proposed to eliminate funding for certain public purpose programs from the rates paid by customers of the state's IOUs, except for funding for specific programs to subsidize costs borne by low-income ratepayers. Status: Died – 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. Additionally mandated the CPUC to establish an income-graduated fixed charge for default residential rates by July 1, 2024, with no fewer than three income thresholds, so that low-income ratepayers would realize lower average monthly bills. Status: Chapter 61, Statutes of 2022.

AB 135 (Committee on Budget) among its many provisions, established the California Arrearage Payment Program and appropriated almost $1 billion to cover outstanding energy utility arrears accrued during the COVID-19 pandemic. Status: Chapter 85, Statutes of 2021.

---

[27] Largely due to uncertainty in how the CPUC would treat ballooning wildfire costs prior to clarifying legislation to provide guidance

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

None on file.

**Opposition**

Bear Valley Electric Service
Liberty Utilities
Pacific Gas & Electric Company
Pacific Power, a division of Pacificorp
San Diego Gas & Electric
Southern California Edison

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