

Date of Hearing: June 8, 2022

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Eduardo Garcia, Chair

SB 1112 (Becker) – As Amended May 19, 2022

**SENATE VOTE:** 28-8

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

**SUMMARY:** Establishes notification requirements that utilities must provide when adding a decarbonization charge to customer bills as part of a program financing energy efficiency upgrades to properties. Specifically, **this bill:**

- 1) Defines an energy supplier as an entity that conducts retail electric sales in California, including, but not limited to, an electrical corporation, local publicly owned electric utility (POU), electric service provider (ESP), and community choice aggregator (CCA). An electrical cooperative is also considered an energy supplier for the purposes of this bill.
- 2) Defines a “decarbonization upgrade” as a change to a subscriber property that does any of the following:
  - a. Reduces electric demand.
  - b. Stores energy.
  - c. Reduces the use of fossil fuels.
  - d. Converts water, wind, or sunlight to usable electricity.
- 3) Defines a decarbonization charge as a charge added by an energy supplier to a bill for electrical service associated with the electrical meter to pay for a decarbonization upgrade to the subscriber’s property.
- 4) Requires the California Public Utilities Commission (CPUC), a local publicly owned electric utility (POU) governing board, or an electrical cooperative governing board to ensure that energy suppliers comply with the following regarding upgrades financed by the energy supplier through decarbonization charges:
  - a. Sets a 10-day deadline for an energy supplier to provide a notice to the applicable county recorder for the property after a decarbonization upgrade has been installed at the property. The county recorder must include a specified record of the notice under the name of the property owner. This bill deems the record of the decarbonization charge as a sufficient notice to subsequent subscribers at that address of an obligation to pay the decarbonization charge.
  - b. Requires an energy supplier to provide specified notices within 10 days of recovering outstanding costs for a decarbonization upgrade or when ceasing to collect a decarbonization charge.

- c. Specifies that an agreement for a decarbonization upgrade must include a requirement that the owner of the property must disclose the decarbonization charge in lease and rental agreements. This requirement applies only to decarbonization upgrade agreements executed after January 1, 2023.
- 5) Requires the California Energy Commission (CEC) to identify funding opportunities available for building decarbonization and apply for available federal funds. The CEC must submit a report to the Legislature by December 31, 2023, identifying any statutory changes that would better enable California to obtain federal funding or other decarbonization financing solutions.

**EXISTING LAW:**

- 1) Creates a charge on electricity and natural gas consumption to fund cost-effective energy efficiency and conservation activities. (Public Utilities Code § 381 and § 890)
- 2) Requires the 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.)
- 3) 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 CEC, and authorizes an IOU to recover the costs in rates. (Public Utilities Code § 381.2)
- 4) 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)
- 5) 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)
- 6) 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)
- 7) 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 percent 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)

**FISCAL EFFECT:** According to the Senate Appropriations Committee, this bill will generate one-time costs of roughly \$200,000 to \$300,000 (General Fund or special fund) for the CEC to identify and apply for available funding for building decarbonization, and to submit a report to the Legislature identifying any statutory changes that would better enable California to obtain federal funding or other decarbonization financing solutions. The CPUC estimates that any costs would be minor and absorbable.

### **BACKGROUND:**

*Fusing split incentives* – The decarbonization upgrades defined by this bill include rooftop solar panels, electric water heaters, in-home batteries, electric vehicle charging equipment, improved insulation and many other improvements. 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 Executive Order B-55-18, various financing strategies may encourage investment in these upgrades.

These financing strategies will be particularly important in incentivizing adoption of decarbonization upgrades in rental units and in multi-family buildings. In a report on low-income communities' barriers to energy efficiency investments, CEC identified split incentives as a significant barrier to incentivizing energy efficiency and distributed energy resource (DER) upgrades in circumstances where the property owner doesn't experience ratepayer benefits associated with financing an upgrade, and the renter can't authorize upgrades or obtain the financial incentives from upgrade programs.<sup>1</sup> In the Clean Energy in Low-Income Multifamily Buildings Action Plan, CEC noted that these upgrades can require large upfront 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.<sup>2</sup>

*TOB of mind issues* – SB 1112 contemplates decarbonization upgrades paid for by a charge that is added to the customer bill associated with one or more electrical meters (or other measuring device) and in which the charge is transferred to any successor who receives electrical service at that location. Such arrangements are often referred to as Tariff On-Bill (TOB), or synonymously, Tariff-Based Recovery (TBR). 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. In addition, this proceeding is considering multiple sources of funding by combining and leveraging ratepayer funds with private financing to support these more comprehensive investments.

---

<sup>1</sup> 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.

<sup>2</sup> California Energy Commission. *Clean Energy in Low-Income Multifamily Buildings Action Plan*. August 2018.

As a part of the CEF proceeding, the CPUC identified multiple forms of energy efficiency financing options the CPUC will consider, including TOB financing and on-bill repayment.<sup>3</sup>

TOB is an opt-in tariff that allows renters and property owners alike 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.<sup>4</sup> 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, or charges that the utility puts on customer bills, for system investments 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 no process currently exists to ensure that renters and homebuyers are aware of these obligations before buying or renting a property. Critically, the CEF proceeding is ongoing and no TOB programs are currently authorized by the CPUC. However, Pacific Gas & Electric, Southern California Edison, SoCalGas, and Silicon Valley Clean Energy included TOB programs in their proposals for financing options.

*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 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 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.

#### COMMENTS:

- 1) *Author’s Statement.* According to the author, “Approximately 6 million households, 4 million of which are low-income, lack ready access to private capital for upgrading their homes with climate-beneficial appliances. These customers can often be disqualified due to high debt-to-income ratios, poor credit, low home equity, or renter status. Utility TOB investment allows for these households to access the installation of climate-friendly appliances. Because the charges added to the utility bill are associated with the meter rather than with the customer, a new building owner or new renter will become responsible for paying these charges. A utility must be confident that it has the right to continue collecting on these charges until the cost of the upgrade has been recovered, and it is only fair that new owners and tenants should be properly notified of the obligation to

---

<sup>3</sup> 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.

<sup>4</sup> Some financial arrangements permit using third-party investment capital

pay these charges before they commit to moving in. There is concern that such notifications do not exist or the methods by which those notifications could be done would be very burdensome. This bill attempts to solve this issue, following a model established for a similar program for water efficiency upgrades via SB 564.

It is also important to make sure that there is a large amount of low-cost financing that can be provided so that the maximum number of buildings can be upgraded at the best cost to those customers. Federal financing for this may be available, but we need to make sure that California adapts its programs to qualify for that funding and that utilities can figure out how to apply for it. The bill also attempts to address this issue.”

- 2) *Consumer Protection.* Because the TOB financing mechanism is attached to the meter, not the customer, if an owner or tenant leaves, then the new owner or tenant will be obligated to continue the tariff.<sup>5</sup> In this case, notification becomes important for implementation and could impact a customer’s decision whether to rent an apartment or buy a building. While this bill specifies requirements for decarbonization charge notices, this bill does not require decarbonization charges or establish further enforcement requirements regarding decarbonization charges. Instead, this bill requires the CPUC and utility governing boards to ensure that energy suppliers record decarbonization charges with local governments. This bill also requires the CPUC and these governing boards to ensure that decarbonization charge agreements to stipulate that rental and lease agreements must also include a notice about an existing decarbonization charge. The CPUC is in the process of considering decarbonization charges as a form of energy efficiency upgrade financing and, to the extent that this bill reduces ambiguity about the notification process for consumers that would pay decarbonization upgrades associated with a property, this bill could facilitate the implementation of these charges as a financing option.
- 3) *Are the utilities debt collectors?* Some IOUs have brought forward the concern that the recording of this notice requirement could lead to an energy supplier possibly being construed to be a “debt collector” and then subject to an array of additional licensing laws and obligations that are applicable to banks and other “debt collectors” and well outside an IOU’s business. As this question is outside this committee’s jurisdiction, the Assembly Committee on Banking provided a cursory review, and reassured that the notification requirements established by this bill are not secured by the property. *However, the author and committee may wish to consider a clarifying amendment stating the intent of the bill is to provide a transparency measure for renters and homebuyers and affirm that the act of an energy supplier recording this notice of a decarbonization charge does not constitute a debt collection.*
- 4) *Prior Legislation.*

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.

---

<sup>5</sup> Although the programs may be designed with ways for customers or utilities to cease participation in the tariff upon the original recipient moving.

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**

350 Bay Area Action  
350 Humboldt: Grass Roots Climate Action  
350 Sacramento  
350 Silicon Valley  
A. O. Smith Corporation  
Acterra  
Building Decarbonization Coalition  
Carbon Free Palo Alto  
Carbon Free Silicon Valley  
East Bay Community Energy (EBCE)  
Greenlining Institute  
Menlo Spark  
San Mateo Climate Action Team  
Silicon Valley Clean Energy  
Silicon Valley Youth Climate Action  
Sonoma Clean Power  
Sustainable Silicon Valley  
The Climate Center

### **Support If Amended**

Pacific Gas and Electric Company and Its Affiliated Entities

**Oppose Unless Amended**

San Diego Gas & Electric

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