SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Steven Bradford, Chair
2023 - 2024 Regular

Bill No:	AB 2666	**Hearing Date:**	7/2/2024
Author:	Boerner		
Version:	5/16/2024 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Nidia Bautista		

SUBJECT: Public utilities: rate of return

DIGEST: This bill requires the California Public Utilities Commission (CPUC) to review the actual past costs an electrical or gas corporation records following each general rate case (GRC) test year, and adjust the authorized revenue requirement in the subsequent GRC, as appropriate.

ANALYSIS:

Existing law:

1) Establishes and vests the CPUC with regulatory authority over public utilities, including electrical and natural gas corporations. (Article XII of the California Constitution)

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

This bill:

1) Requires the CPUC, following each GRC test year, to review which costs, if any, each electrical corporation or gas corporation was able to reduce to achieve profits and to adjust the authorized revenue requirement in the subsequent GRC, as appropriate, based on the actual past costs the corporation records.

2) Requires the CPUC to establish guidelines for electrical corporations and gas corporations to calculate and report annually their actual rates of return to the CPUC.

3) Requires the CPUC to adopt controls to adequately track those corporations' actual rates of return relative to their forecasted rates of return and to require

those corporations to identify the cost categories where projected costs exceeded actual costs.

Background

General Rate Case. The CPUC addresses the costs of operating and maintaining investor-owned utility (IOU) systems through GRC proceedings. The CPUC evaluates detailed cost data from both past expenses and utility forecasts of likely future costs, and establishes how much money the utilities are allowed to collect for the first year – called a test year. They then prescribe how to adjust the test year budget for inflation and other factors that may affect costs, such as additional capital projects, for the following three years, summing to a total of four years that each GRC cycle encompasses.

2023 State Auditor's Report. A recent report by the State Auditor investigated causes of increasing electricity and natural gas rates, and recommended options for limiting rate increases. The State Auditor concluded that, while some of the elements contributing to electricity and natural gas rate increases are outside of the control of the CPUC – due to needed upgrades to the electrical system, wildfire mitigation efforts, and weather conditions – the CPUC can better protect customers by implementing improvements to its oversight. These recommendations included, among others: (1) promoting transparency by instituting a process that requires utilities to periodically publish actual rate of return calculations; and (2) require energy utilities to identify major costs categories savings were achieved when the projected costs exceeded actual costs, and publish and analyze this information. This bill seeks to institute those recommendations at the CPUC.

Comments

Need for bill. According to the author: It's unconscionable that while utility companies are making profit over the permissible rate set by the CPUC, Californians continuously see higher gas and electric bills. With the cost-of-living consistently going up, every dollar counts and Californians should not bear utility costs while utility companies are making record profits. AB 2666 would require the CPUC to determine if rates were unreasonably set higher than the approved rate of return and adjust accordingly.

Utility rate of return. The CPUC prospectively authorizes, in the GRC, the return on investment, or profit, that an IOU can earn in a given year, called a rate of return. In any given year, a utility's actual rate of return may be higher or lower than the rate the CPUC authorized, depending in part on how the utility manages its operations and costs. According to the State Auditor, beginning in 2013, in nine of the last ten years, San Diego Gas & Electric's (SDG&E) actual rate of return was higher than its authorized rate of return, raising questions about the accuracy of their forecasted costs. Although Pacific, Gas & Electric's (PG&E) actual rate of return has only been higher than its authorized rate of return in one of the last ten years, they recently announced record profits for 2023, earning more than $2.2 billion, a nearly 25 percent increase from 2022. This announcement came after customers saw their monthly electric bills rise by almost 20 percent at the beginning of 2024, following the CPUC's approval of rate increases in PG&E's 2023-2026 GRC.

This bill seeks to lower electric and gas bills by requiring any profits a utility earns above its authorized rate of return. As pointed out in the State Auditor's report, SDG&E's ability to earn higher-than authorized rates of return for multiple years and through different GRC cycles suggests that it may have overstated its forecasted costs during the GRC proceeding, and leads to concerns over whether the CPUC's process for setting revenue requirements is sensitive enough to realize these efficiencies as standard practice moving forward and to self-correct in the following GRC proceeding.

Need for amendments. In many ways, this bill makes explicit the need for the CPUC to improve its frequency and review of forecasted costs by utilities to better protect customers from increasing utility bills. Specifically, this bill would require the CPUC to adjust the revenue requirement based on the utility's actual costs in the test year, the first year of the now-four year GRC. However, opponents contend that the test year is only one of four years within the GRC, with many costs fluctuating over the GRC timeframe and cycle. They contend that the GRC is intended to forecast costs across four years, not on an annual basis. This seems valid, while still ensuring ongoing review by the CPUC of the rate of return. *In this regard, the author and committee may wish to amend this bill to delete reference to the "test year" and make additional and related clarifying changes while still ensuring review of the actual costs during the GRC cycle.*

Prior/Related Legislation

AB 2054 (Bauer-Kahan, 2024) among its provisions, authorizes the CPUC to allocate between ratepayers and shareholders any costs recorded in a balancing account above an authorized forecast. The bill is pending before this committee.

AB 2847 (Addis, 2024) requires electric and gas IOUs to provide in their request for capital expenditures their best estimation, alongside supporting documents, of the impact of the proposed expenditures on the utility's authorized revenue for each year of the life of the capital asset, as well as the asset's net present value. The bill is pending before this committee.

AB 3256 (Irwin, 2024) requires the CPUC, before July 1, 2025, to conduct a comprehensive audit of each wildfire- or emergency-related memorandum or balancing account of each electrical corporation. The bill is pending before this committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

350 Humboldt: Grass Roots Climate Action
California Environmental Voters
California Solar & Storage Association
Media Alliance
Peninsula Clean Energy
SanDiego350
Sonoma Clean Power
The Utility Reform Network

OPPOSITION:

California State Association of Electrical Workers
California State Pipe Trades Council
Coalition of California Utility Employees
Pacific Gas and Electric Company
Southern California Edison
Southern California Gas Company

ARGUMENTS IN SUPPORT: According to The Utility Reform Network:

> While customers face energy insecurity, the utility shareholders are profiting, and sometimes more than its authorized rate of return. In its audit report on the CPUC "Electricity and Natural Gas Rates: The California Public Utilities Commission and Cal Advocates Can Better Ensure that Rate Increases are Necessary," the State auditor identified that "In nine of the last 10 years, SDG&E's actual rate of return was higher than its authorized rate of return." With utility shareholders seeing record profits, the auditor identifies an important problem that AB 2666 would answer. AB 2666 would require a utility that earns a rate of return that is higher than its authorized rate to return the excess of its authorized rate to ratepayers. The

bill would ensure that while utility customers face energy insecurity the shareholders would not be unduly profiting in excess of an authorized and guaranteed rate of return.

ARGUMENTS IN OPPOSITION: SDG&E, SCE, and PG&E state:

The Joint Utilities generally manage costs over the four-year GRC cycle to catch up on important operating needs. The GRC provides utilities flexibility to shift costs from areas where costs were lower than forecasted to areas where costs were higher than forecasted, ensuring that we can provide safe and reliable service to our customers and adapt to emerging risks. As part of the GRC authorization process, the PUC assesses historical spending levels to set future revenue requirements. This reset each GRC that considers actual costs utilities spend benefits ratepayers. Once the revenue requirement is set, usually sometime in the test year, utilities manage their costs over the GRC cycle. Thus, only reviewing the first year of utility revenues, savings, and earnings, as AB 2666 would do, may not be indicative of utility spending for the three years remaining of the GRC cycle.

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