
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

**Senator Benjamin Allen, Chair
2025 - 2026 Regular**

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| Bill No: | SB 875 | Hearing Date: | 4/21/2026 |
| Author: | Wiener | | |
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| Urgency: | No | Fiscal: | Yes |
| Consultant: | Nidia Bautista | | |

SUBJECT: Public utilities: eminent domain: just compensation

DIGEST: This bill limits the ability of the California Public Utilities Commission (CPUC) to review the voluntary or involuntary change of ownership assets of an electrical or gas corporation to a public entity, including ensuring that such transactions are in the public interest, and instead requires the CPUC to only consider the impacts to public utility employees. This bill also requires specified timeframes by when a public utility must respond to the local government that files a petition with the CPUC as to just compensation for the property of the public utility. This bill also prohibits recovery from public utility ratepayers of any litigation costs associated with a local government's efforts to acquire the public utility's property.

ANALYSIS:

Existing law:

- 1) Prohibits private property from being taken without just compensation. (Fifth Amendment of the U.S. Constitution)
- 2) Prohibit the taking of (or damage to) private property for a public use unless just compensation is paid to the owner. Authorizes the Legislature to provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation. (Article 1, §19 of the California Constitution)
- 3) Establishes and vests the CPUC with regulatory authority over public utilities, including electrical, gas, telephone, and water corporations. Provides that the Legislature has plenary power, unlimited by the other provisions of the California Constitution but consistent with Article 12, to confer additional authority and jurisdiction upon the CPUC to establish the manner and scope of review of CPUC action in a court of record, and to enable it to fix just

compensation for utility property taken by eminent domain. (Article 12, §5 of the California Constitution)

- 4) Authorizes, pursuant to the Eminent Domain Law, a public entity to exercise the power of eminent domain to acquire property for a public use if the use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated, as specified. (Code of Civil Procedure §1230.010 *et seq.*)
- 5) Provides that in an eminent domain action, where property (other than privately owned public utility property) is being used for a public use, the decision of a public entity to take that property for the same or any other public use is conclusively presumed to be a more necessary use than the property's current use. (Code of Civil Procedures §1240.650 (b))
- 6) Specifies, in cases where the private property which has been appropriated to public use is electric, gas or water public utility property, that the presumption of a more necessary use by a is a rebuttable presumption, rather than a conclusive presumption, affecting the burden of proof if the public entity intends to put the property to the same use, with some exceptions. (Code of Civil Procedures §1240.650 (c))
- 7) Authorizes a public entity to exercise the power of eminent domain only if it has adopted a resolution of necessity, as specified, which contains a declaration that the public entity has found and determined, among other things: a) the public interest and necessity of the project; b) that the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and, c) that the property described in the resolution is necessary for the proposed project. A resolution of necessity adopted by the governing body of a public entity conclusively establishes that, among other matters, the public interest and necessity require the project. Specifies that, if a taking is by a local public entity and the property is electrical, gas, or water public utility property, the resolution of necessity creates a rebuttable presumption that those matters are true. (Code of Civil Procedures §§1245.220, 1245.230, 1245.250)
- 8) Requires a court to award a defendant their litigation expenses if the eminent domain proceeding is dismissed or if there is a final judgment that the plaintiff cannot acquire the property by eminent domain, as provided. (Code of Civil Procedures §1245.060)

- 9) Prohibits public utilities, other than certain common carriers, from selling, leasing, assigning, mortgaging, or otherwise disposing of, or encumbering, its assets that are necessary or useful in the performance of its duties to the public, unless the public utility has secured an order or approval from the CPUC to do so, as provided. (Public Utilities Code §851(a))
- 10) Requires, for any voluntary or involuntary change in ownership of assets from an electrical corporation or gas corporation to ownership by a public entity, the CPUC to determine, as part of its review under these provisions, whether the transaction is fair and reasonable to affected public utility employees. (Public Utilities Code §851(b))
- 11) Prohibits a person or corporation, whether or not organized under the laws of this state, from directly or indirectly merging, acquiring, or controlling, including pursuant to a change in control as described in subparagraphs (D) or (E) of paragraph (1) of subdivision (b) of Section 854.2, any public utility organized and doing business in this state without first securing authorization to do so from the CPUC. (Public Utilities Code §854)
- 12) Requires a successor employer to retain all covered employees for at least the transition period following a change of control, unless the CPUC approves a reduction in the workforce. During the transition period, the successor employer shall not reduce the total compensation of a covered employee. (Public Utilities Code §854.2)
- 13) Provides procedures for the acquisition under eminent domain proceedings, or otherwise, of lands, property, and rights of a public utility by a political subdivision, and requires the CPUC to fix the just compensation to be paid by the political subdivision for the lands, property, and rights, as provided. (Public Utilities Code §1401 *et seq.*)
- 14) Requires the CPUC to resolve, in a ratesetting or quasi-legislative case, the issues raised in the scoping memo within 18 months of the date of the proceeding is initiated, unless the CPUC makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline. Authorizes the CPUC to specify in a scoping memo a resolution date later than 18 months from the date the proceeding is initiated, if the assigned commissioner approves of the date and reasons are provided for the necessity of the later date. (Public Utilities Code §1701.5 *et seq.*)

This bill:

- 1) Makes extensive legislative findings and declarations as to the necessity of a special statute for public entities within the Pacific Gas and Electric Company (PG&E) service area.
- 2) Exempts from rebuttable presumption property that has been appropriated to a public use that is electrical or gas public utility property within the PG&E service area.
- 3) Provides that, if a taking is by a local public entity within the PG&E service area and the property is electrical or gas public utility property, the resolution of necessity instead conclusively establishes those matters.
- 4) Requires the CPUC, in its review of a voluntary or involuntary change in ownership of assets from an electrical or gas corporation to a public entity, to limit its review to determining whether the transaction is fair and reasonable to affected public utility employees. Requires the review to occur after a change in ownership agreement is made for a voluntary change in ownership, or after the completion of the condemnation proceeding for an involuntary change in ownership.
- 5) Requires the owner of a public utility, within 90 days of a political subdivision submitting an amount for just compensation or a plan for the separation of the public utility's assets, to also submit an amount for just compensation or provide a response to the separation plan, as provided.
- 6) Authorizes the CPUC, if it finds that the total just compensation should include costs for the physical separation of the public utility's assets, to establish a process for the reimbursement of those costs and to determine the reasonableness of those expenses. Requires the CPUC to make and file its findings regarding just compensation with respect to the public utility within 18 months of the date the petition is filed.
- 7) Prohibits a public utility from recovering from ratepayers any litigation costs associated with a political subdivision's efforts to acquire utility property, as provided.

Background

CPUC authorization to sell, lease, assign or otherwise dispose of public utility property. Pursuant to Public Utilities Code §851, public utilities, including

electrical and gas corporations, are required to obtain CPUC authorization prior to selling, leasing, assigning, mortgaging, or otherwise disposing of the whole or any part of its line, plant, system, or other property necessary or useful in the performance of its duties to the public. Public Utilities Code §851 does not provide specific criteria for the CPUC to use in authorizing or not authorizing a transaction. Rather, longstanding CPUC precedent has held that Section 851 requires it to review the proposed transaction in order to assure that it is in the public interest, or not adverse to the public interest. The CPUC can use either standard in its review.

According to the CPUC, the considerations for these transactions can be highly dependent on the facts of the transaction, and can include:

- whether “utility property is used for other productive purposes without interfering with the utility’s operation or affecting service to utility customers;”¹
- the fitness of the proposed transferee;²
- the impact of the transfer on customers; or,
- if there is no economic harm to be mitigated.³

If the CPUC finds the circumstances require a more in-depth review, the CPUC has also used the criteria in Section 854 of the Public Utilities Code, which relates to mergers and acquisitions, to evaluate transactions under Section 851.⁴ Section 854 includes specific criteria for transactions involving \$500 million or more of gross annual California revenue to find that on balance the transaction is in the public interest. These include: maintain or improve the financial condition of the resulting public utility, maintain or improve the quality of service, maintain or improve the quality of management of the resulting public utility, be fair and reasonable to affected public utility employees (including both union and nonunion employees), be fair and reasonable to the majority of shareholders be beneficial on an overall basis to state and local economies and communities in the area, preserve the jurisdiction of the CPUC and the capacity of the CPUC to effectively regulate and audit public utility operations, and provide mitigation measures to prevent significant adverse consequences. Additional requirements for transactions

¹ D.25-04-032 (Decision Granting Joint Application of Pacific Gas and Electric Company (U 39 G), Pleasant Creek Gas Storage Holdings, LLC, and eCORP Natural Gas Storage Holdings, LLC for Approval of the Sale of the Pleasant Creek Gas Storage Field Under Public Utilities Code Section 851).

² D.06-05-008 (Sale and transfer of Alisal Water Corporation to Pajaro Community Service District).

³ D.90-10-018 (Application of Pacific Gas and Electric and the City of Redding for an order under Section 851 authorizing the former to sell and convey to the latter that certain electric distribution system, in accordance with the terms of an agreement dated May 4, 1983.)

⁴ D.24-05-004 (Denying Application of Pacific Gas and Electric Company (U39E) and Pacific Generation LLC for Approval to Transfer Certain Generation Assets, for a Certificate of Public Convenience and Necessity, for Authorization to File Tariffs and to Issue Debt, and for Related Determinations).

involving \$400 million or more in gross annual California revenues, the CPUC must consider safety management system, comprehensive safety plan, metrics to measure safety, and others. Importantly, while the CPUC has considered these criteria for the typical voluntary transaction under Public Utilities Code §851, the CPUC has not historically applied it to Section 851 decisions involving utility property subject to a condemnation action. For transactions disposing or transferring property of \$5 million dollars or less, the CPUC may use an expedited review and the considerations and criteria in the CPUC's General Order (GO)173 applies.

Changes to CPUC review from recent legislation. More recently, SB 901 (Dodd, Chapter 626, Statutes of 2018) and then SB 550 (Hill, Chapter 409, Statutes of 2020) modified the review the CPUC should apply to condemnation actions. In particular, SB 550 added Section 851(b)(1), which requires that Section 851(a) – requiring CPUC authorization for a public utility to sell, lease, assign, mortgage, or otherwise dispose of the whole or any part of its line, plant, system, or other property – apply to any voluntary or involuntary change in ownership of assets from an electrical or gas corporation to ownership by a public entity. Public Utilities Code §851(b)(1) further requires that the CPUC determine, as part of its review, whether the transaction is fair and reasonable to affected public utility employees.

According to the CPUC, they have yet to apply the new statutory language to an involuntary transfer to a public entity. The CPUC is currently considering the City of San Francisco's petition (*Petition of the City and County of San Francisco for a Valuation of Certain Pacific Gas & Electric Company Property Pursuant to Public Utilities Code Sections 1401-1421. P.21-07-012, Filed July 27, 2021*) to the CPUC for the valuation of Pacific Gas and Electric's assets pursuant to Pub. Util. Code Section 1401 *et seq.* Under those code sections, cities have the voluntary option of petitioning the CPUC for a valuation of the assets to be condemned, with the appropriateness of the condemnation action still subject to court action, and not CPUC review. The City of San Francisco has voluntarily chosen to seek from the CPUC a determination of the valuation of the assets it seeks to acquire from PG&E as opposed to relying on the eminent domain court's valuation. The CPUC has not addressed the extent that Section 851 applies, and parties have made various arguments about the applicability and scope of the new statutory language.⁵

Eminent domain law. From the Senate Judiciary Committee: California law provides that a public entity may exercise the power of eminent domain. California's Eminent Domain Law was adopted in 1975 pursuant to the study and recommendation of the California Law Revision Commission. The

⁵ Similar arguments were made in A.24-08-013, which was ultimately dismissed as unripe. (See D.25-10-037.)

purpose of the 1975 law was to reorganize and restate existing California condemnation law. The framework for how the process works is in the Code of Civil Procedure at §1240.010, *et seq.* The power of eminent domain may be exercised to acquire property only for a public use. (Code of Civil Procedure §1240.010) The power of eminent domain may be exercised to acquire property for a proposed project only if all of the following are established: that the public interest and necessity require the project; the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and the property sought to be acquired is necessary for the project. (Code of Civil Procedure §1240.030.) Additionally, a public entity may exercise the power of eminent domain only if it has adopted a resolution of necessity, as specified in the Code of Civil Procedure §§1245.210-1245.270. This bill reinstates the conclusive presumption rules for the condemnation of privately owned electric or gas utility property within the service area of PG&E.

In *People ex rel. Pub. Utilities Com. v. Fresno*, (1967) 254 Cal. App. 2d 76, the Court of Appeal held that the CPUC did not have jurisdiction to approve or reject or condition a city's power to condemn public utility property under the then-existing version of Section 851. As such, the condemnation steps have traditionally been found in California's eminent domain law in Code of Civil Procedure §§ 1230.010–1273.050. The CPUC has had little to no review of a city's condemnation of public utility property.⁶

Comments

Need for this bill. According to the author:

For decades, utilities like PG&E run by big investors have rigged our regulatory system to block cities' attempts to break up with them and form public utilities. They are afraid that cities and municipalities can do what they do cheaper and better. They are right to be afraid — cities like Sacramento with public utilities pay around 50% less for electricity and receive better service than PG&E offers. They don't deal with the same constant blackouts from poor maintenance, or the poor communication when blackouts happen. SB 875 will unrig the breakup process so that cities like San Francisco can get back on their feet and start delivering affordable, reliable energy to Californians.

SB 875 would remove these IOU-written barriers and ensure that the process local jurisdictions must follow to municipalize is clear and consistent with historical precedent by:

⁶ See for example, CPUC decisions: D.14-02-041; D.87-07-082; and, D.84-03-018.

Reverting the Eminent Domain Standard to Historical Precedent

SB 875 would revert the rebuttable presumption to the pre-1992 conclusive presumption standard such that for utility property appropriated to a public use by a public entity within the PG&E service territory, the presumption of more necessary use is conclusive and non-rebuttable.

When SB 1757 (Morgan, Chapter 812, Statutes of 1992) was moving through the legislative process, opponents (local governments, CMUA, etc.) argued that the passage of this bill would result in serious concerns as to whether a public utility could successfully condemn a utility.

This was no accident. SB 1757 was the result of a successful effort by investor-owned utilities (IOUs) lobbying to amend provisions to make acquisitions by public entities more difficult by raising the burden on public entities to establish their right to acquire utility facilities.

In a report to Governor Pete Wilson recommending that he sign SB 1757, OPR staff noted the following, “The reality of this bill is that it would strengthen the private utilities’ hand in negotiating, and probably dissuade some public acquisitions. This office believes that would be a good thing. The private sector can provide utility services more efficiently [than] the public sector. The whole world round, utilities are being privatized. California should not be marching in the opposite direction.”

In the intervening years, the IOU’s performance problems have shown us the value of utility service by publicly owned utilities and the need to remove unreasonable barriers that the IOUs put up to stymie publicly owned utilities.

SB 875 changes would additionally benefit local governments that do not intend to use eminent domain to municipalize. In addition to allowing for the public acquisition of poorly managed utilities, the mere threat of municipalization puts pressure on private entities to perform to a certain standard. The threat of eminent domain serves as a tool for cities when they are negotiating franchises/fees (the fees paid to cities by utility companies for allowing them to operate in the city).

Even if SB 875 were to go into effect and revert the 1992 changes, private utility owners in eminent domain cases would still have the ability to litigate the value of their property. As the League of Cities noted in their opposition to SB 1757 (1992), “the fair market value of the assets to be acquired in an eminent domain proceeding is contestable and often is decided by a court of law.

Therefore, the court may find that the private utility is a well-managed, viable business whose assets are valued substantially higher than the acquiring public entity has anticipated. In this case, a public entity could reexamine whether a takeover is truly necessary. The League believes that current law provides sufficient safeguards for private utility companies during the eminent domain process.”

Clarifying the CPUC’s Scope of Review

PG&E has tried to exploit some potential ambiguity in section 851, urging the Commission to adopt an extremely expansive and time consuming scope for its review (that it claims would take “years” to complete) and using the 851 review to delay and deter local public entities from utilizing their rights under the eminent domain statute and the just compensation statute.

SB 875 would clarify that the CPUC’s review of transactions by a public entity is narrow, consistent with the CPUC’s historic precedent and the legislative history of AB 1054. SB 875 would clarify that the CPUC’s review of acquisitions by public entities is limited to determining whether the transaction is fair and reasonable to affected public utility employees when the acquiring entity is a public entity.

Changes to 1992 eminent domain law. As it pertains to the proposed changes to the eminent domain law, this bill seeks to shift back to a conclusive determination when a local government seeks to condemn IOU property, specifically for only electrical or gas utility operations within the PG&E service area. While this bill that changed this presumption, SB 1757 applied to public utilities across the board, particularly since the bill was sponsored by the California Water Association which argued that they sought to prevent local governments from seeking to condemn IOU water utility property for the purpose of the city seeking the revenue from the water utility operations for systems that had no issues. The change to the rebuttal presumption was intended to afford IOUs the ability to argue as to the necessity given the IOU was already providing service. Publicly owned utilities, including the California Municipal Utility Association (CMUA), opposed SB 1757. At the time, the Office of Planning and Research, under Governor Pete Wilson, argued that private companies would be more efficient at providing utility services than the public sector. The Legislature may wish to consider whether a unique application to PG&E service area has merits or whether this should affect all utility services in the state.

CPUC role to review transactions. As noted above, condemnation cases do not necessarily require CPUC review, as they undergo a court procedure. However, the

bill's provisions concerning limiting the CPUC's review would apply for any change of control for electrical or gas corporation, whether voluntary or involuntary, and would therefore limit the CPUC's review of these transactions to only the impact on public utility employees. Additionally, by this bill's provisions, these reviews would be timed after an agreement in a voluntary case or after the completion of the condemnation proceeding. The timing of these reviews would make it difficult at best to do much about any impacts to public utility employees. Such a limit on the CPUC's regulatory authority would undermine their ability to consider the broader public interest. Given the wide application of this bill, as it does not apply to a specific case, but any situation of change of ownership of an electrical or gas corporation, could have wide-reaching unintended consequences. The CPUC staff have also concurred with this risk. They believe this is a meaningful change from current law that would limit the CPUC's ability to consider affordability, reliability, safety, and other impacts on remaining customers from a condemnation case. In this regard, the *author and committee may wish to strike the proposed changes to Public Utilities Code §851 from the bill and restore the CPUC's authority to consider the public interest.*

Timelines for public utilities to respond are likely too restrictive. This bill requires a public utility to respond within 90 days when a political subdivision (local government) submits an amount for the just compensation for the lands, property, and rights of any character that the political subdivision identified. The experience of San Francisco Public Utilities Commission (SFPUC) has been one of frustration. They allege PG&E has failed to respond adequately and in a reasonable timely manner to their offers to purchase their property. PG&E claims SFPUC has failed to provide a detailed list of all the properties for which it seeks to purchase from PG&E making it difficult for PG&E to respond. It is unclear whose claims are valid. The bill's timelines likely express the frustration of SFPUC's experience. As the bill moves forward, the author may wish to consider adjusting these timeframes to provide adequate time to respond. Relatedly, this bill requires the CPUC to make findings concerning within 18 months regarding the just compensation needing to include costs related to the physical separation of the public utility's assets, including costs for new facilities. While well-intentioned to provide greater certainty, the author may wish to consider that other proceedings at the CPUC, of less consequence, can take more than 18 months. Under Public Utilities Code §1701.5, the CPUC can extend the 18 month deadline for a proceeding, so long as they make a written determination as to the reason for the extension. This bill does not extend the same authority to the CPUC to extend the determination for just compensation for separation of assets.

Dual referral. This bill passed out of the Senate Judiciary Committee on April 14, 2026 with a vote of 7-1-5.

Prior/Related Legislation

SB 327 (McNerney) of 2025, prohibits certain political influence activities and expenses by electrical or gas corporations, those related to opposing efforts to municipalize energy utility service, from being recorded in certain accounts and having the costs recovered from ratepayers. The bill is pending in the Assembly.

SB 350 (Hill, Chapter 27, Statutes of 2020) among its provisions, authorized Golden State Energy to commence an eminent domain action to acquire all or substantially all of PG&E only if the CPUC determines that PG&E's certificate of public convenience and necessity for the provision of electrical or gas service should be revoked pursuant to any process or procedures adopted by the CPUC in its Decision 20-05-053.

SB 550 (Hill, Chapter 409, Statutes of 2020) Explicitly required the CPUC to approve or reject any voluntary or involuntary change in ownership of assets from an electrical or gas corporation to ownership by a public entity and would require the CPUC to determine whether that transaction is fair and reasonable to the affected public utility employees as part of that review.

AB 1054 (Holden, Chapter 79, Statutes of 2019) included numerous provisions related to addressing wildfires caused by electric utility infrastructure, including: bolstering safety oversight and processes, recasting recovery of costs from damages to third-parties, including the authorization for an electrical corporation and ratepayer jointly funded Wildfire Fund to address future damages, and changes to provisions concerning the workforce of a change of ownership of a full or portion of an electrical or gas corporation.

SB 901 (Dodd, Chapter 626, Statutes of 2018) among its provisions, added language regarding requirements to maintain covered employees, as defined, whenever there is a change of control of an electrical or gas corporation.

SB 1757 (Morgan, Chapter 812, Statutes of 1992) changed the conclusive presumption to a rebuttable presumption in an eminent domain transaction involving a public entity seeking to condemn utility property of an IOU for which the public entity wishes to provide the same utility service.

SB 52 (Rosenthal, Chapter 484, Statutes of 1989) established criteria that the CPUC must consider in reviewing a merger, acquisition, or change of control related to an IOU.

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

SUPPORT:

City and County of San Francisco
Consumer Watchdog
Environmental Working Group
StopWaste

OPPOSITION:

Advance SF
Bay Area Council
California Chamber of Commerce
California State Association of Electrical Workers
California Water Association
Coalition of California Utility Employees
International Brotherhood of Electrical Workers, Local Union 6
Liberty Utilities
Pacific Gas and Electric Company
San Diego Gas and Electric Company
San Francisco Chamber of Commerce
Southern California Edison
Southern California Gas Company

ARGUMENTS IN SUPPORT: Consumer Watchdog states:

PG&E has repeatedly delayed and frustrated municipalization efforts through excessive litigation, refusal to negotiate fair asset valuations, and manipulation of regulatory processes. In San Francisco, efforts to acquire transmission infrastructure have been stalled for years., with more than 130 legal filings delaying proceedings well beyond statutory timelines. Similar delays have hindered other communities, such as the South San Joaquin Irrigation District, for over a decade.

SB 875 addresses these issues by restoring fairness and clarity to the municipalization process. The bill would lower the burden of proof for public entities to acquire utility infrastructure, clarify the scope of review the California Public Utilities Commission (CPUC), and establish enforceable timelines to prevent indefinite delays. These reforms are essential to ensuring that communities can meaningfully exercise their right to pursue local control over their energy systems.

ARGUMENTS IN OPPOSITION: The Coalition of California Utility Employees and the California State Association of Electrical Workers state:

The bill would eliminate key requirements that protect the public interest when a municipality seeks to seize private property owned by an investor-owned utility in PG&E's territory. California enacted these key oversight and protection measures to ensure that utility takeovers are in the public interest. SB 875 is reckless, dangerous and will do nothing to lower utility bills or improve electric reliability. On the contrary it would increase electric rates for PG&E's customers and reduce reliability and disaster response in San Francisco. The bill should be swiftly and categorically rejected.

They further state:

...municipal takeover would significantly impact PG&E employees. It could bankrupt the pension fund if many workers are removed from it who would otherwise be contributing to the pension fund. If it doesn't bankrupt the pension fund, many people will lose their pension if they lose their jobs because of the takeover and the pension is not fully vested. Workers would lose bargaining power by being in smaller units, would lose job mobility that they currently have, and would lose advancement opportunities and earning power. These consequences create the risk these workers will choose NOT to work for the municipal utility. Where would the municipal utility find enough qualified workers? An inadequate city utility workforce would reduce reliability in San Francisco.

-- END --