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

Senator Steven Bradford, Chair

2023 - 2024 Regular

Bill No:	AB 604	Hearing Date:	7/10/2023
Author:	Lee		
Version:	2/9/2023	Introduced	
Urgency:	No	Fiscal:	Yes
Consultant:	Nidia Bautista		

SUBJECT: Mobilehome parks: water utility charges

DIGEST: This bill places limits on the California Public Utilities Commission (CPUC) existing authority to address unjust and unreasonable rates on mobilehome parks that own and operate their own water supply, including limiting the ability to provide reimbursement to the tenants of the park or address the adequacy of the service. This bill also proposes to clarify that all mobilehome parks that elect to provide submetered water service, and bill separately for that service, are subject to a requirement that they charge proportional rates for such submetered water service, under the limitations on charges and fees in connection with water utility service under the Mobilehome Residency Law (MRL).

ANALYSIS:

Existing law:

- 1) Authorizes the CPUC to regulate public utilities, including water corporations, and provides the CPUC to ensure rates are just and reasonable. (Article XII of the California Constitution, Public Utilities Code §§216 and 451)
- 2) Provides that a person or corporation that maintains a mobilehome park and provides water service to users through a submeter service system is not a public utility and is not subject to the jurisdiction, control, or regulation of the CPUC if each user of the submeter service system is charged at the rate which would be applicable if the user were receiving the water directly from the water corporation. (Public Utilities Code §2705.5)
- 3) Provides that a mobilehome park that provides water service only to its tenants from water supplies and facilities that it owns, not otherwise dedicated to public service, is not a water corporation, but that mobilehome park is subject to the jurisdiction of the CPUC to the extent that, if a complaint is filed with the

CPUC by tenants of the mobilehome park that represent 10 percent or more of the park's water service connections during any 12-month period, claiming that the water rates charged by the park are not just and reasonable or that the service is inadequate, the CPUC has jurisdiction to determine the merits of the complaint and determine whether the rates charged are just and reasonable and whether the water service provided is adequate. (Public Utilities Code §2705.6)

- 4) Prohibits the CPUC from making an order for the payment of reimbursement upon the ground of unjustness or unreasonableness if the rate in question has been previously declared by formal finding of the CPUC to be reasonable. (Public Utilities Code §2705.6(e))
- 5) Establishes the MRL which governs the terms and conditions of mobilehome park tenancies to regulate the relationship between mobilehome park management and park residents, and establish various rights, responsibilities and limits of both groups. (Civil Code §798 et seq.)
- 6) Limits charges and fees, as part of the MRL, on homeowners in connection with water services to specified types of charges and fees if the management of a mobilehome park elects to separately bill water utility service to homeowners. Mandates that parks must post in a conspicuous place the specific current residential utility rate schedule published by the serving utility, or the internet website address where the current residential utility rate is published by the utility. Requires the park to make available free of charge the current rate upon a request of a resident, and must state that it is available in their posting. (Civil Code §798.40(a))
- 7) Defines "water purveyor" to mean any person who furnishes water service to another person. Defines "person" to mean any individual, firm, association, partnership, corporation, or public entity of any kind. (Water Code §§512 and 513)
- 8) Limits the rates that a mobilehome park can charge if the park elects to separately bill water service to a homeowner and provide submetered water service as a master-meter customer of the water purveyor. These limits are that:
 - a) the park must charge for water based on volumetric usage, and sets out three methods which the mobilehome park may use to calculate the volumetric usage; and
 - b) for any recurring fixed charge that is charged to the mobilehome park by the water purveyor, that the park may bill residents for this fixed charge either

by the resident's proportion of the park's total volumetric usage of water, or by billing the residents equally for their share of the total. (Civil Code §798.40(c)(2))

- 9) Establishes limits on the billing, administrative, or other fee charged by the park for management's and the billing agent's costs in billing residents separately for their submetered water. This fee must be the lesser of either \$4.75, or 25 percent of the amount billed for each resident's volumetric usage. The maximum fee under this paragraph can be adjusted annually based on a commensurate increase in the Consumer Price Index based on a California fiscal year average for the previous fiscal year, for all urban consumers, as determined by the Department of Finance. (Civil Code §798.40(c)(3))
- 10) Authorizes any mobilehome park management to bill homeowners separately for fees and charges assessed by the utility provider of natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service, or sewer service for the residents' spaces in the park, unless the rental agreement states otherwise.

States that separate utility fees and charges are not rent, or to be considered a rent increase for the purposes of any local ordinance or rule for rent control, as long as base rent calculations for the space are reduced by the separately-billed fees and charges when separate billing has begun. (Civil Code §798.41)

- 11) Requires parks to separately state any utility fees and charges for such utility services on any monthly or other periodic billing to the homeowner. If the fee or charge has a limited duration or is amortized for a specified period, the expiration date shall be stated on the initial notice and each subsequent billing to the homeowner while the fee or charge is billed to the homeowner. (Civil Code §798.41(d))

This bill:

- 1) Prohibits the CPUC from making an order for the payment of reimbursement when customers file complaints against mobilehome parks that provide water service from their own water supplies and facilities (not a master-meter/submeter arrangement) upon the ground of unjustness or unreasonableness if the rate in question complies with limitations on charges and fees in connection with water utility service under the MRL for master-meter/submeter arrangements.

- 2) Provides that a person or other entity that maintains a mobilehome park or a multiple unit residential complex, and provides water service through a submeter service system, is exempt from regulation as a public utility if management of the mobilehome park complies with the limitations on charges and fees for master-meter/submeter arrangements established in the MRL.
- 3) Provides that those limitations on charges and fees in connection with water utility service apply to all management that elects to separately bill water utility service to homeowners under a master-meter/submeter arrangement, including where the water purveyor or the mobilehome park is subject to the jurisdiction, control, or regulation of the CPUC.

Background

Water utilities. California residents are served by an estimated 2,800 water providers of various types of water utilities or water systems, including publicly owned utilities, investor-owned utilities, and small community water systems. Nearly half of these systems (roughly 1,100 water providers) provide water to fewer than 200 customer service connections.

- *Publicly owned water utilities.* The majority of California's residential water customers are served by cities, special districts, and mutual water companies. These utilities are not subject to economic regulation by the CPUC, but are instead governed by the city council, or other local governing body, which set water rates for customers.
- *CPUC-regulated water utilities.* The CPUC has regulatory oversight over water corporations that provide water service to about 16 percent of California's residents. These water corporations generate annual water and wastewater revenues totaling about \$1.4 billion. Approximately 95 percent of the residents served by water corporations are served by nine large water utilities, each serving more than 10,000 customer service connections (approximately a total of 1.175 million customers). As with other investor-owned utilities, the CPUC regulates rates of the water corporation under its jurisdiction.

Mobilehome parks. There are an estimated 508,589 mobile home units in California, according to the U.S. Census Bureau, 2021 American Community Survey 1-Year Estimates (2021). Mobilehome residents in California tend to be poorer and older than the average renter, for which mobilehome ownership is an important option for affordable housing. Many mobilehome residents own their

mobilehome, but lease the land upon which their home is located from the mobilehome park that owns and manages the land and park. Under this relationship, while residents technically own their mobilehome, they pay rent to the park management and often rely on the park for the provision of utilities.

Master-meter service from a water utility. Mobilehome parks frequently provide water to tenants through a master-meter arrangement, whereby the park receives water service from a utility and then bills tenants for the cost of the water. In some cases, the management of the mobilehome park installs separate submeters to bill tenants individually. In these arrangements, the park owner handles the billing with the utility and then bills the park tenants/homeowners themselves. However, in many cases, some mobilehome parks provide tenants water service with their own water supplies and facilities, such as well water. In these cases, the mobilehome park owners are not master-metered, as they are not receiving service from a water utility.

Mobilehome Park Residency Law. The MRL was passed by the Legislature in 1978 to regulate the relationship between mobilehome park management and park residents, and establish various rights, responsibilities and limits of both groups. Over time, the MRL has been amended to include additional protections for residents and limits on charges mobilehome parks can bill residents. One of the subjects addressed by the MRL are utilities. Mobilehome parks can provide utilities to their residents in a number of ways, including as a master-meter providing submetered service. Parks can provide water services in this way as well, obtaining water from a separate utility or purveyor of water, and then providing that water to its residents and billing them separately from rent. In this arrangement, the mobilehome parks contract for and pay for the water to the utility, and then bill their residents separately for the service of managing and providing water from the water purveyor. Other mobilehome parks provide water services to their residents from a utility or water supply (such as from a well) owned by the park.

Mobilehome parks exempted from public utility regulation. In 1983, legislation was enacted, AB 1005 (Costa, Chapter 339, Statutes of 1983), that exempts mobilehome parks that provide water service via a master-meter from regulation as a public utility including the need to obtain a certificate of public convenience and necessity (CPCN) and regulation by the CPUC. Specifically, Public Utilities Code §4505.5 provides that mobilehome parks that provide water service through a submeter service system are not a public utility if each user of the submeter service system is charged at the rate which would be applicable if the user were receiving the water directly from the water corporation.

Legislation adopted to provide CPUC oversight for customer complaints. In the 1990s, in response to constituent complaints regarding the rates that were being charged for water service by mobilehome park owners/managers, AB 290 (Clute, Chapter 349, Statutes of 1991) and SB 585 (Craven, Chapter 689, Statutes of 1995) were enacted to authorize the CPUC to address tenant complaints at mobilehome parks providing water service with their own water supply (not master-meter with supply from a utility). The legislation provided that although these mobilehome parks were not public utilities, tenants of the parks could bring complaints to the CPUC to determine whether the rates charged are just and reasonable and service is adequate. The statute also afforded the CPUC with the authority to provide rate relief and direct the mobilehome park owners to upgrade service. This section of the Public Utilities Code §2705.6, was further expanded by legislation, AB 1830 (V.M. Pérez, Chapter 539, Statutes of 2012) which stipulated that the CPUC could review rates where at least 10 percent of tenants within a 12-month period filed complaints that the rates are not just and reasonable. The legislation also required the mobilehome park to provide written notice to tenants about their rights to file complaints with the CPUC. The bill also required the mobilehome park to reimburse tenants if rates are found to be unjust and unreasonable.

AB 1061 (Lee, Chapter 625, Statutes of 2021). AB 1061 was enacted to help address concerns that mobilehome parks were charging arbitrary administrative fees. The bill establishes specific limits on what mobilehome parks can charge residents when they provide submetered water services as part of a master-meter arrangement whereby the park owner receives water service from a utility or other third-party water provider. These limits tied charges to each residents' proportional, volumetric usage of the park's water, and limited additional administrative charges for providing submetered service to the lesser of either \$4.75 or 25 percent of a resident's volumetric usage. This \$4.75 limit was modeled after SB 7 (Wolk, Chapter 623, Statutes of 2016), a bill passed in 2017 that similarly regulated how submetered water service can be billed in the context of apartment buildings. Through this rubric, AB 1061 provided exact formulas for how the charges may be calculated by mobilehome park management, and sought to limit unscrupulous parks from padding their water service fees and profiting from this master-meter/submetered arrangement.

Comments

Need for this bill. The proponents of this bill contend that some mobilehome park owners argue that they are not subject to AB 1061 and its formula because they receive or provide service that is regulated by the CPUC. The author of this bill

asked Legislative Counsel “whether section 798.40 [Civil Code] applies to the management of an MHP [mobilehome park] that elects to separately bill water service to a homeowner as a utility service, and to provide submetered water to homeowners, if that MHP is a master-meter customer of a CPUC-regulated water corporation.” According to the Legislative Counsel Opinion shared with the committee, Legislative Counsel Opinion Request #2302359 (April 4, 2023) concluded that “section 798.40 applies to the management of an MHP that elects to separately bill water service to a homeowner as a utility service, and to provide submetered water to homeowners, if that MHP is a master-meter customer of a CPUC-regulated water corporation.”

Although Legislative Counsel’s Opinion would suggest no additional legislation is needed, this bill seeks to clarify and explicitly state, through amendments to Section 798.40 of the Civil Code and Sections of the Public Utilities Code, that Section 798.40 and its subdivisions apply to all mobilehome parks that provide submetered water services to its tenants, and that such a park is not under the jurisdiction, control, or regulation of the CPUC. The changes to the Civil Code relate to the application of master-meter/submeter utility water service provided by mobilehome parks. However, the changes to Public Utilities Code §2705.6 relate to mobilehome parks that provide water service only to tenants from water supplies and facilities owned by the mobilehome park. As such, these facilities are not a master-metered arrangement that would necessitate the application of Civil Code §798.40. The Legislative Counsel Opinion also never noted the relevance of Public Utilities Code §2705.6 to the application or implementation of Civil Code §798.40. *In this regard, the author and committee may wish to amend this bill by deleting the changes to Public Utilities Code §2705.6.*

Double referral: This bill passed out of the Senate Committee on Judiciary by a vote of 9-2 on June 20, 2023.

Prior/Related Legislation

AB 1061 (Lee, Chapter 625, Statutes of 2021) prohibited mobile home park management from charging residents more than their proportional share of the water service charges paid by the mobile home park to the water provider, plus a reasonable management fee.

SB 1117 (Monning, Chapter 164, Statutes of 2020) ensured consumer protections for electrical and gas service are extended to tenants of mobilehome parks and other similar residential complexes.

SB 7 (Wolk, Chapter 623, Statutes of 2016) required, as of January 1, 2018, that individual water meters, also called submeters, be installed on all new multifamily residential units or mixed commercial and multifamily units, and requires that landlords bill residents for the increment of water they use.

AB 1830 (V.M. Pérez, Chapter 539, Statutes of 2012) authorized the CPUC to order a mobilehome park to reimburse a tenant, if it finds that the park has charged an unreasonable rate for tenant water services.

SB 585 (Craven, Chapter 689, Statutes of 1995) extended indefinitely the January 1, 1995 sunset of AB 290 (Clute, 1991) that established CPUC jurisdiction over the complaints of tenants of mobilehome parks that provide water service to their own residents through their own facilities.

AB 290 (Clute, Chapter 349, Statutes of 1991) which provided that, although mobilehome parks providing tenants water service with their own water supply were not public utilities, the CPUC can investigate complaints from tenants and award rate relief. The bill had a sunset of January 1, 1995.

AB 1005 (Costa, Chapter 339, Statutes of 1983) exempted owners of mobilehome parks or a multiple unit residential complex and provides water service to users through a submeter service system if each is charged at the rate which would be applicable if the user were receiving water directly from the water public utility.

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

SUPPORT:

Golden State Manufactured-home Owners League, Sponsor
County of Santa Cruz
Santa Cruz County Manufactured and Mobile Home Commission

OPPOSITION:

California Mobilehome Parkowner's Alliance
Western Manufactured Housing Communities Association

ARGUMENTS IN SUPPORT: According to the author:

AB 1061 [Lee] which passed in 2021 prohibits mobilehome park management from charging its residents more than their proportional share of the water service charges paid by the park to the water utility or provider,

in addition to the outlined management fee. However, since then, park owner affiliated organizations have argued that certain mobile home parks are exempted from the statute as written. AB 604 amends the Civil Code to clarify the scope of its protections to include all mobilehome residents.

ARGUMENTS IN OPPOSITION: According to the Western Manufactured Housing Communities Association (WMA):

Unlike traditional site-built homes, manufactured housing communities are responsible for maintaining water systems for each space in mobilehome parks beyond the master-meter connection provided by the local governing water agency. The costs associated with maintaining mobilehome park water systems are significantly higher than for apartment buildings, which is why WMA believes the formula in AB 1061 was inadequate. If the State of California values water conservation and CPUC regulatory authority, AB 604 as drafted should be defeated as it does little to encourage residents of manufactured housing communities to conserve water and undermines the authority of the CPUC to adequately regulate water companies. The CPUC should serve as the model for water delivery, conservation and reimbursement given their expertise in this area. We should have the experts create this policy, not arbitrary legislation that has unintended consequences.

-- END --