

AMENDED IN ASSEMBLY APRIL 22, 2024

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2221

Introduced by Assembly Member Juan Carrillo

February 7, 2024

An act to add Chapter 8 (commencing with Section 8395) to Division 4.1 of the Public Utilities Code, relating to communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2221, as amended, Juan Carrillo. Broadband projects: electric power design approval.

Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities are under the direction of their governing boards. Under existing law, the Legislature finds and declares that given the importance of broadband for public safety, public health, economic growth, education, and job creation, it is in California's best interest for public and private broadband project permits to be processed as quickly and efficiently as possible.

This bill would require an electric utility, defined as an electrical corporation or a local publicly owned electric utility, to adopt, publish, and make easily accessible to the public rules, requirements, and standards applicable to its applications for approval of an electric power design related to the construction and operation of a broadband project, as defined. The bill would require an electric utility to approve or deny a complete application within ~~45~~ 60 or 90 days, and, if the application is incomplete, would require the electric utility to provide written notice

~~within 10 days~~ to the applicant that the application is incomplete and would establish a timeline and process by which the application could be made complete, as specified. If an application is approved, the bill would require the electric utility, ~~within 14~~ 30 days, to provide the applicant with a cost estimate, if applicable, for any necessary work required to accommodate the electric power design described in the application. If the applicant accepts the cost estimate ~~within 45~~ 30 days, the bill would require the electric utility to complete energization to the broadband project location ~~within 30 days~~, *a commission-determined time period*, as specified. The bill would prohibit an application from being subject to any rule, requirement, or standard that has not been published and made easily accessible to the public ~~12 months~~ before the date of the application’s submittal to an electric utility for review.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of a commission action implementing this bill’s requirements would be a crime, the bill would impose a state-mandated local program.

Additionally, by imposing new duties on local publicly owned electric utilities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 8 (commencing with Section 8395) is
 2 added to Division 4.1 of the Public Utilities Code, to read:

3

4 CHAPTER 8. BROADBAND PROJECTS

5

6 8395. For purposes of this chapter, the following definitions
 7 apply:

8 (a) “Application” means a written request, application, or other
 9 document submitted by a broadband provider to an electrical
 10 corporation or local publicly owned electric utility for approval of

1 an electric power design related to the construction and operation
2 of a broadband project.

3 (b) “Broadband project” means a proposed broadband facility,
4 including the support structure and any supporting equipment
5 necessary for operation of the proposed broadband facility. A
6 broadband project may comprise one or more components,
7 including, but not limited to, a wireless facility, a fiber optic
8 connection, and other supporting equipment, each of which may
9 require a separate permit or authorization.

10 (c) “Days” means calendar days.

11 (d) “Electric utility” means an electrical corporation or a local
12 publicly owned electric utility.

13 (e) “Electrical corporation” has the same meaning as that term
14 is defined in Section 218.

15 (f) “Local publicly owned electric utility” has the same meaning
16 as that term is defined in Section 224.3.

17 (g) “Submittal” means the delivery or proffer of an application
18 to an electrical corporation or a local publicly owned electric utility.

19 8396. (a) An electric utility shall adopt, publish, and make
20 easily accessible to the public, including an applicant, all rules,
21 requirements, and standards applicable to applications submitted
22 to the electric utility. An application shall not be subject to any
23 rule, requirement, or standard that has not been published and
24 made easily accessible to the public ~~12 months~~ before the date of
25 the application’s submittal to an electric utility for review.

26 (b) (1) (A) (i) An electric utility shall approve or deny a
27 complete application within ~~45~~ 60 days of the date of the
28 application’s ~~submittal~~, *submittal for applications for installation*
29 *on existing infrastructure, and within 90 days of the date of the*
30 *application’s submittal for all other applications*, consistent with
31 subdivision (d). ~~An application that is not approved or denied~~
32 ~~within that time period shall be deemed approved as a matter of~~
33 ~~law. If the application includes requests to attach to over 300~~
34 ~~pieces of infrastructure, the electric utility shall have 15 additional~~
35 ~~days to respond for existing infrastructure and 30 additional days~~
36 ~~for new infrastructure.~~

37 (ii) *If an applicant has outstanding corrective orders from the*
38 *electric utility involving safety violations, the electric utility shall*
39 *provide written notice to the applicant upon the submittal of*
40 *subsequent applications by the applicant, and request the applicant*

1 *propose a plan for complying with the corrective orders within a*
2 *designated time period. If the applicant is limited in its ability to*
3 *process the corrective orders within the designated time period,*
4 *the electric utility shall work with the applicant to reach a modified*
5 *timeline, pursuant to subparagraph (C), for the electric utility to*
6 *process subsequent applications.*

7 (B) *A colocation or siting application for a wireless*
8 *telecommunications facility, as defined in Section 65850.6 of the*
9 *Government Code, shall be deemed approved if all of the following*
10 *occur:*

11 (i) *The electric utility fails to approve or disapprove the*
12 *application within a reasonable period of time in accordance with*
13 *the time periods and procedures established in subparagraph (A).*
14 *The reasonable period of time may be tolled to accommodate timely*
15 *requests for information required to complete the application.*

16 (ii) *The applicant has provided all public notices regarding the*
17 *application that the applicant is required to provide under*
18 *applicable laws consistent with the public notice requirements for*
19 *the application.*

20 (iii) *The applicant has provided notice to the electric utility that*
21 *the reasonable time period has lapsed and that the application is*
22 *deemed approved pursuant to this section.*

23 (iv) *Within 30 days of being provided the notice described in*
24 *clause (iii), the electric utility may seek judicial review of the*
25 *operation of this section on the application.*

26 ~~(B)~~

27 (C) *All timelines established by this section, including in*
28 *subparagraph (A), may be extended or otherwise modified upon*
29 *written, mutual agreement of the electric utility and the applicant.*

30 (2) *If an application is denied, the denial shall be in writing and*
31 *include the reason for the denial and how the application could be*
32 *revised in order to be subsequently approved.*

33 (c) (1) *If an application is approved, within ~~14~~ 30 days of that*
34 *approval, the electric utility shall provide the applicant with a cost*
35 *estimate, if applicable, based on actual cost, for any necessary*
36 *work required to accommodate the electric power design described*
37 *in the application. The applicant shall accept or reject the cost*
38 *estimate within ~~45~~ 30 days.*

39 (2) *Following acceptance of the cost ~~estimate~~, estimate and*
40 *receipt of notice of the applicant's completion of all required*

1 *construction, inspections, or other approvals required by the*
2 *electric utility or other authority, the electric utility shall complete*
3 *energization to the broadband project location within 30 days of*
4 *receiving notice of the applicant's completion of all required*
5 *construction, inspections, or other approvals required by the electric*
6 *utility or other authority. a time period determined by the*
7 *commission in Rulemaking 24-01-018 (January 30, 2024), Order*
8 *Instituting Rulemaking to Establish Energization Timelines, or a*
9 *subsequent rulemaking.*

10 (d) (1) If an electric utility cannot approve or deny an
11 application within the timeframe established in subdivision (b)
12 because the application is incomplete, the electric utility shall
13 provide written notice to the applicant that the application is
14 ~~incomplete within 10 days of the application's submittal.~~
15 *incomplete.* An applicant shall have 30 days from the date of the
16 written notice of incompleteness to correct and resubmit the
17 application. ~~The resubmitted application shall not be subject to~~
18 ~~any additional application or processing fees.~~ If the applicant does
19 not submit a corrected application within 30 days from the date of
20 the written notice of incompleteness, the application shall be
21 canceled.

22 (2) A written notice of incompleteness shall specify every item
23 and any information missing from the application and shall cite
24 the specific published rule, requirement, or standard that states
25 that the missing item or information is required to make the
26 application complete.

27 (3) If an electric utility deems an application incomplete and
28 complies with the requirements of paragraphs (1) and (2), the time
29 period specified in subdivision (b) shall be tolled beginning on the
30 date the electric utility issues the written notice of incompleteness.

31 (4) On the date of an applicant's submittal of the requested
32 supplemental item or information described in the written notice
33 of incompleteness, the time period specified in subdivision (b)
34 shall resume.

35 ~~(5) If an electric utility does not provide written notice to an~~
36 ~~applicant that its application is incomplete within the 10-day period~~
37 ~~established in paragraph (1), the time period for approving or~~
38 ~~denying the application shall not be tolled.~~

39 (6)

1 (5) Upon submittal of a corrected application, the electric utility
 2 may issue subsequent written notices of incompleteness if the
 3 application remains incomplete. Subsequent notices shall identify
 4 which of the previously requested items or information remain
 5 missing from the application. ~~A subsequent written notice of
 6 incompleteness shall not include new items or information outside
 7 the scope of the original written notice of incompleteness.~~

8 (e) If an electric utility is unable to process a complete
 9 application within the applicable time period pursuant to
 10 subdivision (b), the electric utility shall provide written notice to
 11 the applicant upon the application’s submittal and propose a plan
 12 for complying with the applicable time period. If the electric utility
 13 is limited in its ability to process an application because of its
 14 limited resources, the electric utility shall work with the applicant,
 15 in good faith, to resolve the resource limitations, which may
 16 include, but is not limited to, the applicant’s provision of
 17 supplemental resources.

18 SEC. 2. No reimbursement is required by this act pursuant to
 19 Section 6 of Article XIII B of the California Constitution because
 20 a local agency or school district has the authority to levy service
 21 charges, fees, or assessments sufficient to pay for the program or
 22 level of service mandated by this act or because costs that may be
 23 incurred by a local agency or school district will be incurred
 24 because this act creates a new crime or infraction, eliminates a
 25 crime or infraction, or changes the penalty for a crime or infraction,
 26 within the meaning of Section 17556 of the Government Code, or
 27 changes the definition of a crime within the meaning of Section 6
 28 of Article XIII B of the California Constitution.