



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Time Change


**PLANNING COMMITTEE
MEETING**

9:45 a.m.

Tuesday, December 10, 2019

Notice is hereby given that the Tuesday, December 10, 2019 Planning Committee Meeting of the Board of Directors has been rescheduled from 9:15 a.m. to 9:45 a.m. The meeting will be held in the Training Resource Center of the Administration Building, 375 - 11th Street, Oakland, California.

Dated: December 5, 2019



Jarretta M. Johnson
Acting Secretary of the District

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**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 – 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

AGENDA

**Planning Committee
Tuesday, December 10, 2019
9:45 a.m.
Training Resource Center**

(Committee Members: Directors Linney {Chair}, McIntosh and Mellon)

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

DETERMINATION AND DISCUSSION:

1. Senate Bill 998 Update (Lee)
2. Facility Landscape Maintenance (Briggs)

ADJOURNMENT:

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability


Materials related to an item on this agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours, and can be viewed on our website at www.ebmud.com.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: December 5, 2019

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Andrew L. Lee, Manager of Customer & Community Services 

SUBJECT: Senate Bill 998 Update

INTRODUCTION

In September 2018, Senate Bill 998 (SB 998) was enacted to provide additional safeguards related to the discontinuation of residential water service for nonpayment, in addition to those already established under existing laws, including the Municipal Utility District (MUD) Act.

Specifically, SB 998 requires the District to adopt a written policy regarding the discontinuation of residential water service due to nonpayment, among other mandates. The policy must take effect by February 1, 2020. SB 998 requires that the written policy contain information about the following:

1. A plan for deferred or reduced payments;
2. Alternative payment schedules;
3. A formal mechanism for a customer to contest or appeal a bill; and
4. A telephone number for a customer to contact to discuss options for averting discontinuation of residential water service.

A presentation will be provided to the Planning Committee on December 10, 2019 on these new mandates and the District's effort to meet the requirements of SB 998.

DISCUSSION

SB 998 is intended to assist low-income water customers in avoiding discontinuation of residential water service for nonpayment by creating new statewide procedural safeguards that include: (1) noticing provisions prior to discontinuation of service for nonpayment; (2) prohibiting discontinuation of residential water service in specified circumstances; and (3) providing for statewide limits on reconnection fees for low-income households. The bill also includes other provisions, such as tenant protections, enforcement provisions, and reporting requirements.

The District's existing water service discontinuation and customer assistance practices are consistent with SB 998. For example, the District does not discontinue service unless a customer has been delinquent for at least 60 days. In fact, the District does not discontinue service unless a customer has been delinquent for more than 90 days. During this delinquency period, the District provides information to customers on options for avoiding discontinuation of service. What is more, the District does not discontinue service if a customer enters into a payment plan for the delinquent charges. The District also grants payment extension on delinquent bills to allow a customer extra time to make their payment. In some areas, the District goes beyond SB 998's mandates. For example, the District provides 15 days' notice prior to discontinuation of service, whereas SB 998 requires notice at least seven days' notice prior to discontinuation. Going one step further, the District provides an additional 48-hour notice prior to discontinuation at the customer's premises.

Furthermore, the District will not interrupt services to a customer who is financially unable to make a payment by the due date, and/or who submits medical certification from a licensed primary care provider explaining that discontinuing water service would create a life-threatening circumstance for the customer or a resident of the premises. However, in these cases, the customer must agree to make regular payments toward the unpaid balance as approved by the District. The District also provides tenants a 10-day overdue notice in advance of shut off, which allows them to resolve a past due bill or become the person of service without penalty when the landlord has failed to pay for water service. For multi-family properties, the District utilizes its lien authority to avoid discontinuation of service for these households by placing the delinquent bills on the property tax roll, which is the responsibility of the property owner.

Additional requirements imposed by SB 998 include a limit on reconnection fees for residential customers who demonstrate that the customer's household income is below 200 percent of the federal poverty level. SB 998 requires that interest charges on delinquent bills for these customers be waived once every 12 months. Reconnection fees for these residential customers during normal business hours must be set at \$50 or less, not to exceed the actual cost of reconnection. The reconnection fee for these residential customers during non-business hours must be set at \$150 or less, not to exceed the actual cost of reconnection. The District currently charges \$49 for reconnections during normal business hours and \$67 during non-business hours. SB 998 would also require the District to annually post on its website the number of times services are discontinued due to nonpayment. The District currently tracks the number of discontinued services monthly. The data will be published annually on the District's website.

Finally, SB 998 requires the District to adopt a written policy regarding the discontinuation of residential water service due to nonpayment, effective February 1, 2020. While the District's current regulation includes a section on discontinuation of service, the existing regulation does not explicitly describe the procedural steps to prevent discontinuation of service, including the process for the customer to appeal a water bill. To ensure compliance with SB 998, District Regulation Section 15 - Discontinuance of Service (Regulation) will be updated to reflect the District's current practices. Below are four areas the Regulation or written policy must cover as mandated:

1. A plan for deferred or reduced payments

Customers are able to request a deferral or extension of the payment period in order to pay the unpaid bill. When a customer requests a deferral of payment, they must contact the District by telephone or in writing. Once received, staff reviews each request with the customer to determine an appropriate deferral timeline. Existing District practices are in compliance with SB 998 and will be memorialized in the Regulation.

The District offers reduced payments for eligible customers through the Customer Assistance Program (CAP) to prevent water service interruptions. Residential customers eligible for CAP are offered a temporary discount of their District water and wastewater service charges. Eligible customers will receive 50 percent discounted water service, up to a maximum of 1,050 gallons per person per month. If the customer resides in the District's wastewater service area they will also receive a 35 percent discount on wastewater service charges.

2. Alternative payment schedules

The District currently offers an alternative payment schedule and/or payment plans at the customer's request to pay a delinquent bill. If a customer wishes to defer payments or agrees to an alternative payment schedule, they must agree to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. Customers granted such payment arrangements will be required to enter into a written payment agreement with the District. Existing District practices are consistent with the requirement in SB 998 and will be memorialized in writing in the Regulation.

3. A formal mechanism for a customer to contest or appeal a bill

The District currently has an informal process in place for customers to contest or appeal a water bill. As required by SB 998, the District is updating the Regulation to include a formal mechanism for customers to appeal a bill. Per the updated Regulation, a customer may dispute a bill by submitting a written description of the dispute to the District's Customer Services Manager, or by speaking directly with a Customer Services Supervisor by telephone within 15 calendar days after the payment due date. The Customer Services Manager shall respond in writing to the customer no later than 15 days after receiving the bill challenge in writing or by telephone.

Any customer whose timely dispute has resulted in an adverse determination may appeal the determination to the Manager of Customer and Community Services by filing a written notice of appeal within 10 business days of mailing of the Customer Service Manager's determination. The Manager of Customer and Community Services has 10 days to respond to the appeal. The Manager of Customer and Community Services will investigate the customer's dispute or complaint and render the decision based on the following factors:

- a. Whether the charges are correct;
- b. Whether staff discontinued water service prior to the completion of this appeal process;
- c. Whether staff failed to offer deferred payments or an alternative payment schedule or reduced payments as outlined above;
- d. Whether staff failed to inform the customer of the District's CAP program; or
- e. Whether staff failed to consider medical certification as outlined above.

During the billing dispute period, the District will not discontinue residential water service. The Board should be aware that any customer whose billing dispute has resulted in an adverse determination may appeal the determination to the Board. The customer's right to appeal to the Board is provided for under both the MUD Act Section 12823(d) and Government Code Section 60372(d).

4. A telephone number for a customer to contact to discuss options for averting discontinuation of water service.

The District currently provides a telephone number for customers who may need to contact the District to obtain information regarding payment arrangements to avoid service interruption and/or the process to dispute a bill. The telephone number is provided on the regular billing statement, the 15-day notice, the 48-hour notice prior to discontinuation, and all corresponding door hangers left at the premises. The telephone number will be included in the updated Regulation as required by SB 998.

NEXT STEPS

The updates to the Regulation for discontinuation of residential water service are scheduled for Board consideration at its January 14, 2020 meeting. If approved, the updated Regulation will become effective on February 1, 2020. The approved Regulation will be posted on the District's website and made available in multiple languages.

ARC:ALL:dlb

Attachment



SECTION 15

DISCONTINUATION OF SERVICE

Water service may be discontinued for reasons as follows:

AT CUSTOMER'S REQUEST

Water service will be turned off on the date requested by the customer, except Saturdays, Sundays, and holidays, provided sufficient advance notice is furnished to the District. The customer will be held responsible for all service rendered to his premises until the District has received notice to terminate such service.

FOR NONCOMPLIANCE WITH THESE REGULATIONS

Water service may be discontinued, reclassified, or removed by the District for failure to comply with any of the regulations governing water service to customers.

If service is turned off for failure to pay a bill or for violation of regulations, the District may require payment of a service restoration charge as set forth in the Schedule of Rates and Charges in addition to all overdue District bills before restoring service.

In the event the customer turns on the water service or allows or causes it to be turned on after it has been turned off for the above reasons, the District may again turn off the water service, and may charge and collect a service restoration charge for each such event in addition to other amounts due from the customer before restoring water service.

FOR NONPAYMENT OF BILLS

Water service may be discontinued by the District if a bill for water service charges and applicable sewer charges included as part of the District's bill is not paid by the payment due date within 15 days following the due date, or if a bill for service at a previous location is not paid within 15 days after mailing or presentation at the current location.

Water service will not be discontinued until a payment by a customer has been delinquent for at least 60 days following the payment due date. No less than 15 business days before discontinuation of service for nonpayment, the District shall mail a written service interruption notice to the customer named on the account as well as the occupant where the customer's address is not the same as the service address. Additionally, no less than 48 hours before discontinuation of service for nonpayment, the District shall attempt to contact the customer named on the account or an adult person living with the customer by telephone or in person and, if unsuccessful, will leave a final service interruption written notice and a copy of this policy at the premises.

~~If service is turned off for failure to pay a bill or for violation of regulations, the District may require payment of a service restoration charge as set forth in the Schedule of Rates and Charges in addition to all overdue District bills before restoring service.~~

~~In the event the customer turns on the water service or allows or causes it to be turned on after it has been turned off for the above reasons, the District may again turn off the water service, and may charge and collect a service restoration charge for each such event in addition to other amounts due from the customer before restoring water service.~~

OPTIONS TO AVOID SERVICE INTERRUPTION FOR NONPAYMENT OF BILLS

Residential customers may avoid service interruption under any of the following conditions:

1. Medical Certification

The District will not interrupt services to a customer who is financially unable to make a payment by the payment due date and who submits medical certification from a licensed primary care provider that discontinuing water service would be life threatening to, or pose a serious threat to the health and safety of, the customer or a resident of the premises; provided that the customer agrees to make regular payments toward the unpaid balance in a manner approved by the District. A customer is deemed "financially unable to make a payment" if the customer's household is currently on CAP, or if any member of the customer's household is a current recipient of CalWORKS, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or the customer declares that the household's annual income is less than 200 percent of the federal poverty level. For customers who meet the above qualifications, the District will select an appropriate payment arrangement, taking into consideration information from the customer and the District's payment needs. A customer who receives a payment arrangement under this paragraph will be required to enter into a written payment agreement with the District. If for 60 days or more a customer fails to comply with the written payment agreement or pay his or her current service charges, the District may discontinue water service after posting a final service interruption notice at least five (5) business days before discontinuation.

2. Deferred Payments/Alternative Payment Schedule or Reduced Payments

a. Deferred Payments/Alternative Payment Schedule

A residential customer may avoid discontinuation of service for nonpayment by deferring payment of the unpaid bill or by agreeing to an alternative payment schedule. The customer must contact the District, by telephone or in writing, to request an alternative payment schedule or a deferral of the payment period in which to pay the unpaid bill. The District shall review the customer's request. If A customer wishing to defer payments or agree to an alternative payment schedule must agree to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. The customer who is granted such payment arrangement will be required to enter into a written payment agreement with the District.

Customers who enter into a payment agreement with the District and who makes regular required payments toward the unpaid balance shall avoid discontinuation of service for nonpayment of the bill. Failure to comply with the terms of the written payment agreement shall result in the discontinuation of service after posting of a final service interruption notice at least 48 hours before discontinuation.

b. Reduced Payments

The District offers a Customer Assistance Program (CAP) to eligible low-income customers. Residential customers eligible for CAP are offered a temporary discount in the District water and wastewater rates. The discounted amount is applied prospectively, after the District determines a customer meets the eligibility requirements to participate in CAP.

CAP Eligibility:

CAP eligibility is based on income limits that correspond to the "very low-income level" established by the State housing poverty guidelines, which are set by the county and updated annually. A very low-income limit reflects 50% of Housing and Urban Development's Median Family Income. A customer that is on CAP must notify the District if the customer's household no longer qualifies for the CAP. CAP Benefits are temporary and are not provided indefinitely. Eligible CAP customers must reapply to participate in CAP every 24 months.

CAP Benefits:

Eligible customers may qualify for 50 percent discount on the standard bimonthly service charge and 50 percent discount on the water use in each eligible household, up to a maximum of 1,050 gallons per person per month. A 35 percent discount on the District's wastewater service charge and flow charges collected will be applied to the account. CAP benefit shall be effective beginning the billing period when the eligibility is approved by the District.

CAP Benefits shall apply only to the District's service charges.

3. Contest or appeal a bill

Customers may Contact the District at (866) 403-2683 to obtain information regarding payment arrangements to avoid service interruption and/or the process to dispute a bill. A customer may dispute a bill by submitting a written description of the dispute to the District's Customer Services Manager or by speaking directly with a Customer Services Supervisor by telephone within 15 calendar days after the payment due date. The Customer Services Manager shall respond in writing to the customer no later than 15 days after receiving the dispute in writing or by telephone.

Any customer whose timely dispute has resulted in an adverse determination may appeal the determination to the Manager of Customer and Community Services by filing a written notice of appeal within ten (10) business days of mailing of the Customer Service Manager's determination. The Manager of Customer and Community Services has 10 days to respond to the appeal. The decision of the Manager of Customer and Community Services shall conclude the investigation of the customer dispute or complaint. The review of customer's dispute or complaint shall include the following factors:

1. Whether the charges are correct;
2. Whether staff discontinued water service prior to the completion of this appeal process;
3. Whether staff failed to offer deferred payments or an alternative payment schedule or reduced payments as outlined above;

4. Whether staff failed to inform the customer of the District's CAP program; or
5. Whether staff failed to consider medical certification as outlined above.

Water service will not be discontinued during the period the customer's bill dispute is being investigated or appealed.

All appeals submitted to the Manager of Customer and Community Services shall be presented to the Board of Directors in a monthly report, including decisions rendered.

~~D4-63.15~~

~~AUTHORITY RESOLUTION NUMBER 19010 ISSUED BY ADMINISTRATION~~

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: December 5, 2019

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: David A. Briggs, Manager of Water Operations *YB*

SUBJECT: Facility Landscape Maintenance

INTRODUCTION

The District maintains landscaping at hundreds of facilities in the East Bay. This work significantly intensifies after the wet season transitions into the fire management season. This memorandum summarizes the District's facility landscape maintenance activities and plans to contract out a portion of the work during periods of peak workload. This item will be presented at the December 10, 2019 Planning Committee meeting.

DISCUSSION

The District performs vegetation management at over 400 facilities in the East Bay. In addition to staff, the District contracts out for goats and with Civicorps for assistance with vegetation management, including erosion control, fire access road and trail maintenance, brush clearing, and removal of dead trees. During the fire season, typically between April and October, fire fuel abatement at facilities in wooded or rural areas is mandated by local fire code. These requirements are challenging to meet even after lower priority work is deferred.

To address peak workload issues during the fire season, the District plans to issue an agreement for pruning, weeding, and planting activities at various District administration buildings, service centers, and the Oakport facility. This support will help maintain the health of landscape vegetation, the aesthetic value of District facilities, and in a few locations, address security concerns due to vegetation overgrowth. This agreement may also provide irrigation maintenance and litter abatement on these properties.

The District funded an additional Grounds Maintenance Specialist II position in Fiscal Year 2020 and the recruitment is active. However, to support the increased activities during the fire season, the District plans to contract out a portion of the landscaping work for an amount not to exceed \$73,922 annually for three years, with two options to renew for additional one-year periods for a total cost of \$369,610.

Union Notification

Staff notified Local 444 of the proposed agreement on September 6, 2019. After Local 444 objected to the agreement, staff met with Local 444 on November 18, 2019 to discuss Local 444's concerns. Local 444 confirmed their objection to the agreement on November 22, 2019.

NEXT STEPS

The facility landscape maintenance agreement will be brought to the Board for consideration at its January 14, 2020 meeting. The District will fill its remaining Grounds Maintenance Specialist II funded vacancy.

ARC:DAB:sd