

Meeting Date: 6/25/2013

Report Type: Staff/Discussion

Report ID: 2013-00236

Title: Utility Service Discontinuance Program

Location: Citywide

Issue: An audit of the utility billing process recommended discontinuance of utility service for nonpayment to improve revenue.

Recommendation: Pass 1) a Motion approving implementation of the Department of Utilities' proposed utility service discontinuance program for nonpayment; and 2) a Resolution requiring that utility service termination appeals be heard by a hearing examiner.

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Presenter: Jamille Moens, Business Services Manager, (916) 808-5988, Department of Utilities

Department: Department Of Utilities

Division: Fiscal and Administration Svcs

Dept ID: 14001611

Attachments:

1-Description/Analysis

2-Background

3-Resolution

City Attorney Review

Approved as to Form

Joe Robinson

6/18/2013 12:49:42 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt

Russell Fehr

6/10/2013 10:49:11 AM

Approvals/Acknowledgements

Department Director or Designee: Bill Busath - 6/17/2013 12:05:55 PM

Description/Analysis:

Issue: The City of Sacramento Utility Billing Audit (Report #12-03), conducted by Macias Consulting Group, Inc. and dated June 6, 2012, recommended that the Department of Utilities (DOU) consider implementing a discontinuance of service process for delinquent utility accounts. The audit concluded that the City's utility write-offs were higher than five other comparable agencies, and noted that an effective tool used by the five agencies for collection of delinquent accounts is the discontinuance of water service for nonpayment.

City Code §13.12.120 currently establishes the authority for the City to terminate utility services if all or part of any the utility service charges are not paid by the due date. To assist in the practice of a discontinuance program, it is recommended that the City Council pass a Resolution to allow customer appeals of staff investigations to be heard by a hearing examiner, as provided under Chapter 1.24 of the City Code.

Policy Considerations: City Code §13.12.120 establishes the authority for the City to terminate utility services if all or part of any utility service charges are not paid by the due date. Specifics of how the DOU administers service discontinuance for nonpayment are delineated in City Code §13.12.120 to §13.12.190, which incorporate applicable provisions of the California Public Utilities Code (PUC). The California PUC provides several customer safeguards, which are incorporated in the City Code, including a notice and appeal process, payment arrangements of up to 12 months, additional noticing requirements for residential tenants, and certain medical and/or financial circumstances where services would not be discontinued. In addition to these safeguards, the City offers a Utility Rate Assistance Program which provides assistance to income eligible households to pay their monthly water and wastewater bills.

The recommended utility service discontinuance program proposes discontinuance of water and wastewater services for nonpayment, but not storm drainage or solid waste services. Storm drainage cannot be discontinued. Discontinuance of solid waste service is not consistent with the regulatory State mandate for weekly garbage collection, would not support the City's landfill diversion requirements, and may increase illegal dumping. The proposed program supports budget sustainability and fiscal responsibility by being more aggressive in account collections, in an attempt to ensure that each customer pays for services rendered. If a customer fails to pay for services received, and the cost of service is not recovered through a collection mechanism, it necessitates that other customers bear the burden of paying for the service as the resulting bad debt affects rates.

Implementation of this proposed program would be preceded by an extensive public outreach and information campaign to allow customers time to become aware of the

program and bring their accounts current, if Council approves a service discontinuance program. The DOU proposes to begin implementing the program in January 2014 following customer outreach beginning in Fall 2013.

Economic Impacts: None.

Environmental Considerations: Ongoing administrative activities, including general policy and procedure making such as the proposed program, do not constitute a "project" under the California Environmental Quality Act (CEQA), and are exempt from CEQA review (see CEQA Guidelines Section 15378(b)(2) and 15378(b)(5)).

Sustainability: The program is anticipated to lower write-offs which will increase revenues, hence increasing fiscal sustainability in the water, wastewater, storm drainage and solid waste enterprise funds.

Commission/Committee Action: On April 30, 2013, the Audit Committee reviewed the proposed discontinuance program and voted to forward the proposed program for City Council review.

Rationale for Recommendation: Discontinuing service for nonpayment is a proven and effective collection tool that is used by utility agencies throughout the country. The discontinuance of water service for nonpayment is endorsed by the American Water Works Association since the failure to pay a water bill necessitates that other customers bear the burden of paying for the service. Although the DOU has a number of collection tools in place, the proposed discontinuance program for nonpayment is predicted to reduce write-offs. Revenue capture is increased when fewer accounts are written-off.

Financial Considerations: It was necessary to make assumptions regarding customer behavior to estimate potential revenue losses and gains. Based on a number of assumptions about customer behavior and data supplied from other agencies, the DOU estimates an increase in the ability to recover net revenue by \$500,000 to \$750,000 annually. There will be nonrecurring costs to establish a service discontinuance program of approximately \$25,000. Recurring costs associated with the program would be covered by the discontinuance shut-off and restoration fees established by City Council and reflected in the City of Sacramento's Fees and Charges report.

Emerging Small Business Development (ESBD): Not applicable.

Background:

The City of Sacramento Utility Billing Audit (Report #12-03) dated June 6, 2012 recommended that the Department of Utilities (DOU) consider implementing a discontinuance of service process for delinquent accounts. The auditor suggested that by not discontinuing service, DOU's ability to capture revenue is considerably impacted, resulting in higher write-offs compared to peer agencies. The DOU's write-offs consist of closed utility accounts that are sent to an external collection agency.

Following the auditor's recommendation, the Audit Committee and City Council directed the DOU to examine the possibility of service discontinuance for nonpayment and provide a report. The DOU reviewed City Code, surveyed other agencies, examined collection procedures, and performed a cost/benefit analysis. As a result of this research and analysis, the DOU is proposing implementation of a utility service discontinuance program and recommending specific program elements.

Survey Results:

Research indicates that discontinuing service for nonpayment is a proven collection tool that is used by utility agencies throughout the country. In addition, the DOU conducted a survey of 16 water provider agencies to gather information regarding collection practices. Eight agencies responded, resulting in a 50% response rate. All of the responding agencies reported having a discontinuance policy and six actually discontinued water service for nonpayment.

Cost/Benefit Analysis:

Lacking empirical data necessitated the need to make a number of assumptions regarding customer behavior. However, the cost/benefit analysis indicates that revenue would increase and be sustained in the range of \$500,000 to \$750,000 annually. Information drawn from a survey of other water providers and research regarding foreclosure activity was used to formulate the assumptions made in this analysis. Property owners frequently continue to live in a home during foreclosure proceedings. The threat of service discontinuance for nonpayment provides greater incentive

for a customer still residing at the service address to pay the delinquent charges.

Establishing a utility service discontinuance program will result in one-time and recurring costs and benefits as shown below:

Cost		Benefit	
Revenue "loss": Inability to recoup service charges and fees if service is not reinstated following discontinuance	(\$170,000) to (\$520,000)	Special Assessment Process: lag between charges and receipt of payment	\$200,000
		Reduction in write-offs for closed accounts	\$650,000
		Decreased liability to Sacramento Regional County Sanitation District	\$70,000 to \$170,000
Total:	(\$170,000) to (\$520,000)		\$920,000 to \$1,020,000
Net:	\$500,000 to \$750,000		
One-time costs: public outreach, changes to billing system, training customer service		(\$25,000)	
First Year:	\$475,000 to \$725,000		

City Code and Customer Safeguards:

City Code §13.12.120 currently establishes the authority for the City to terminate utility services if all or part of any the utility service charges are not paid by the due date. Specifics covering how the DOU administers service discontinuance for nonpayment are delineated in City Code §13.12.120 to §13.12.190, which incorporate applicable provisions of California Public Utilities Code. Implementation of a utility service discontinuance program will follow guidelines established in City Code which include customer safeguards detailed in the following table:

Customer Safeguards
After written notice from the Department, property owners may file a complaint, request an investigation, or an extension of time (§13.12.140);
The Department may approve payment arrangements, up to 12 months (§13.12.0160(3));
No discontinuance occurs if certification is received from a licensed physician indicating that discontinuing service will be life-threatening to a resident (§13.12.160(4));
No discontinuance occurs if the customer provides documentation of an annual household income less than \$25,000 (§13.12.160 & §3.32.170);
An appeal process allows customers to be heard before a hearing examiner in the event the customer disagrees with the Department’s determination (§13.12.150(D));
Termination of water service must be during business hours (§13.12.190);
Protections for tenants if landlord fails to pay for utility services and discontinuance is imminent (§13.12.160(C) & (D)).

In addition to these safeguards, the City offers a Utility Rate Assistance Program which provides assistance to income eligible households. Qualifying households are eligible to receive up to a \$6 discount on water and wastewater service charges on their monthly utility bill.

Collections Process:

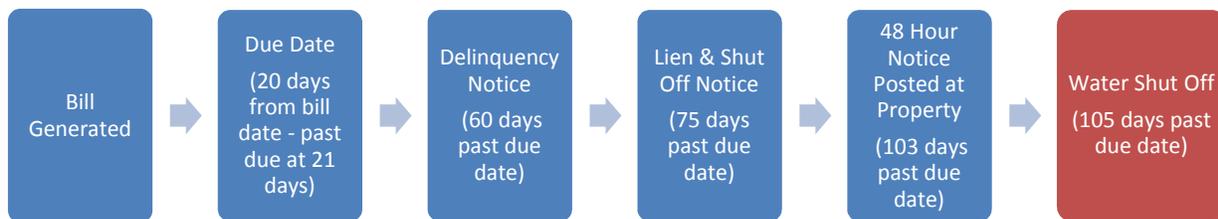
The DOU relies on a number of collection tools including late fee assessments, property liens and special assessment levies to collect past due balances on active accounts. Although the authority to discontinue utility service for nonpayment exists in City Code, the City has not practiced a service discontinuance program in recent years. Prior to the severe real estate market decline and resulting foreclosure crisis that peaked in 2009, the DOU’s existing collection process addressed the major delinquency concerns without a discontinuance program.

However, there is a correlation between the number of foreclosures and amount of write-offs for the DOU. During periods when foreclosure activity is high, write-offs are high as well. This is due to the elapsed time between

when a homeowner becomes delinquent on an account and when that account is closed due to foreclosure. A recent report indicated that a formal foreclosure process averages 8 months to complete. Many homeowners continue to live in the residence during foreclosure proceedings, and generally become delinquent on their City utility charges. In cases where the DOU has a lien on the property for delinquent charges owed, if a lender with a senior deed of trust or mortgage forecloses on the property prior to the delinquent charges being transferred to the County property tax bill as a special assessment levy, the lien is terminated and cannot be collected as a special assessment levy. A service discontinuance program would provide the DOU an additional collection tool that would provide incentive for all property owners to keep their utility bills paid current, including those who are living in their residence during foreclosure proceedings.

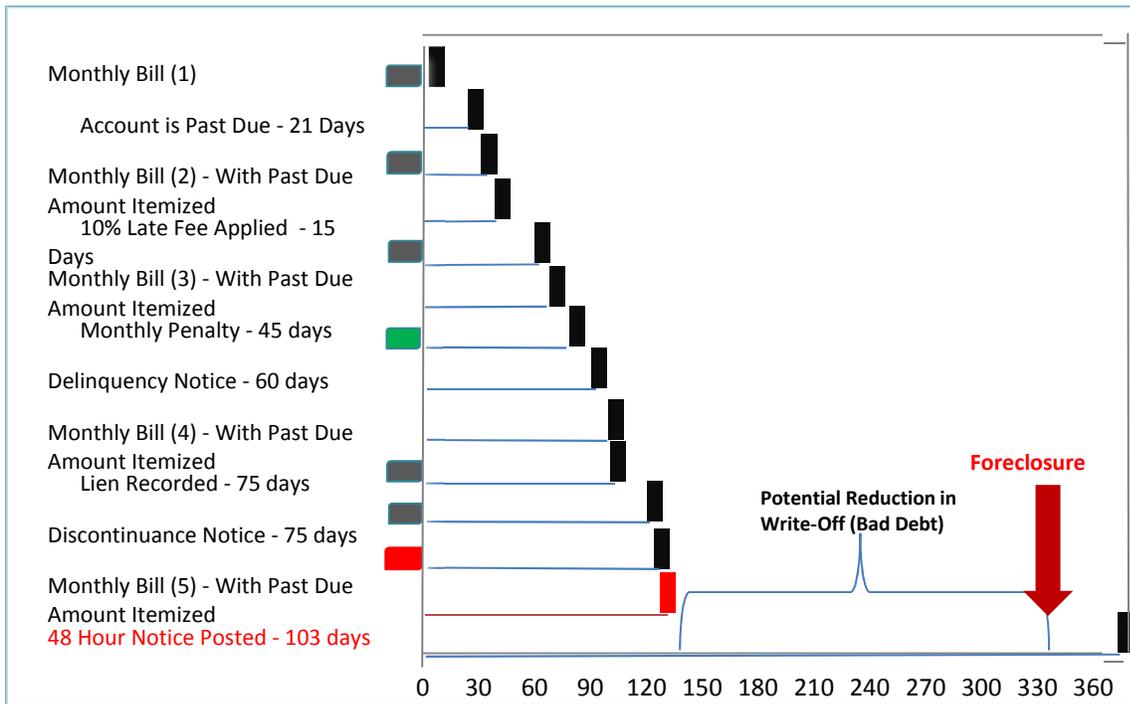
Program Policy Recommendations:

The DOU is recommending the implementation of a utility service discontinuance program for nonpayment for the following reasons: the current authority currently exists in City Code, water discontinuance is a common practice throughout the region and nationwide, and the program is expected to increase revenue capture. The following outlines the proposed discontinuance process flow recommended by the DOU:



The chart below provides a graphic representation of the number of notifications a customer is provided through the DOU’s monthly billing process, as well as the tools used to collect on delinquent accounts. The proposed utility service discontinuance program seeks to reduce bad debt (write-offs related to closed accounts), especially as it relates to foreclosures as depicted below.

Service Discontinuance & Reduction of Write-offs (Bad Debt)



In anticipation of implementing this program, the DOU also recommends the following program elements:

- Staff recommends that a notice of service discontinuance be issued once a property has been liened for delinquent charges, which occurs when an account becomes 75 days past due. Although the City Code allows a 30-day notice of service discontinuance to be sent at any time after the service charges become delinquent, issuing a service discontinuance notice when the lien is placed on the property is a fiscally sound practice. The lien clouds title of the property during the period of notice, investigation and appeal, and remains on the property if a payment arrangement is allowed after the 30-day notice is sent. If charges remain unpaid at 105 days past due, and no action is taken by the customer to pay the account, request a payment arrangement, or present a dispute for investigation, service would be discontinued.
- The DOU bills for storm drainage, solid waste, water and wastewater. However, it is not possible to discontinue storm drainage or street

sweeping service and State law mandates weekly garbage collection service. For these reasons, staff recommends that only water and wastewater services be discontinued (wastewater service is effectively discontinued upon discontinuance of the water service), and that the property owner be required to pay all delinquent utility charges in order to prevent a termination of the water service.

- Government accounts cannot be assessed a lien which prevents the DOU from utilizing liens as a collection tool on government accounts. Staff recommends that these accounts also be subject to service discontinuance for nonpayment.
- The City Code provides that decisions issued by City staff as part of the utility service discontinuance process may be appealed pursuant to Chapter 1.24 of the City Code, by filing a notice of appeal with the City Clerk. Appeals filed under Chapter 1.24 are made to the City Council, unless the City Council directs the appeal to a hearing examiner. Subsection B of City Code Section 1.24.060 authorizes the City Council by resolution to specify categories of appeal which routinely involve a lengthy fact finding process, and to instruct the city clerk to schedule such appeal hearings before a hearing examiner without further action of the city council. Staff believes that appeals filed as part of the utility service discontinuance process will likely involve a lengthy fact finding process, and recommends that such appeals be scheduled for hearing before a hearing examiner, rather than the City Council. The Resolution included with this report directs appeals to a hearing examiner selected from the panel of hearing examiners appointed by the City Council pursuant to Section 8.04.070 of the Sacramento City Code. This is the same hearing examiner panel used for hearings held in connection with the City's special assessment process for delinquent utility service charges, under City Code section 13.12.100.

RESOLUTION NO.

Adopted by the Sacramento City Council

REQUIRING APPEALS OF DECISIONS ISSUED FOR UTILITY SERVICE TERMINATION, UNDER CITY CODE SECTION 13.12.150, TO BE HEARD BY A HEARING EXAMINER

BACKGROUND

- A. Article III of Chapter 13.12 of the Sacramento City Code establishes procedures for the termination of City utility services when utility service charges are not paid. Under Section 13.12.130 of the Sacramento City Code, the City may initiate the termination procedure by sending a written notice of the payment delinquency and impending service termination to the customer. City Code Section 13.12.140 allows the customer to file a complaint, request an investigation, or request an extension of time to pay. City Code Section 13.12.150 requires City staff to schedule a meeting to review the complaint or request, and requires City staff to issue a decision on the complaint or request after the meeting is held.
- B. Subsection D of City Code Section 13.12.150 provides that the decision issued by City staff may be appealed pursuant to Chapter 1.24 of the City Code, by filing a notice of appeal with the City Clerk. Appeals filed under Chapter 1.24 are made to the City Council, unless the City Council directs the appeal to a hearing examiner instead of scheduling the appeal for hearing before the City Council. Subsection B of City Code Section 1.24.060 authorizes the City Council by resolution to specify categories of appeal which routinely involve a lengthy fact finding process, and to instruct the city clerk to schedule such appeal hearings before a hearing examiner without further action of the city council. The resolution also must include criteria for the selection of a hearing examiner.
- C. Appeals filed pursuant to subsection D of City Code Section 13.12.150 are likely to involve a lengthy fact finding process, and should be

scheduled for hearing before a hearing examiner rather than the City Council.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Clerk shall schedule appeal hearings for all appeals filed pursuant to subsection D of Section 13.12.150 of the Sacramento City Code before a hearing examiner instead of the City Council. The hearing examiner shall be selected from the panel of hearing examiners appointed by the City Council pursuant to Section 8.04.070 of the Sacramento City Code.