

Meeting Date: 8/8/2013

Report Type: Staff/Discussion

Report ID: 2013-00584

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.

Contact: Jamille Moens, Integrated Planning and Business Operations Manager, (916) 808-5988; Jenny Simpson, Program Specialist, (916) 808-1463, Department of Utilities

Presenter: Jamille Moens, Integrated Planning and Business Operations Manager, (916) 808-5988, Department of Utilities

Department: Department Of Utilities

Division: Integrated Planning & Bus Ops

Dept ID: 14001661

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Resolution

City Attorney Review

Approved as to Form
Joe Robinson
8/1/2013 10:01:00 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
7/31/2013 11:46:58 AM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 7/31/2013 1:33:57 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) implement discontinuance of service for delinquent utility accounts. DOU concurs with this recommendation. Staff presented a proposed Utility Service Discontinuance Program (Program) to Council on June 25, 2013. Council requested additional information which is included in this report.

City Code §13.12.120 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: The City Auditor provided an independent, objective, and reliable assessment of the DOU utility billing process and concluded that “continuing to lien, and not turn off, delinquent accounts has had a considerable revenue impact on the Department.” The recommended Program is consistent with the City's goals and objectives and with the practice of utility providers nationwide.

City Code governing the discontinuance of utility services for nonpayment incorporates all applicable requirements and procedures mandated by the California Public Utilities Code (PUC). These procedures and requirements include safeguards for customers covering medical, health and safety concerns, and protections for residential tenants should their landlord not pay the utility bill. In addition, the City Code specifies additional requirements above and beyond what the PUC requires, including an initial notice period of 30 days (instead of 15), and a prohibition against discontinuing service to low income occupants. Payment arrangements can be set-up at any time during the process, for up to 12 months, to avoid discontinuance and assist in paying off the utility bill without penalties. 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. Lastly, the City Code establishes an appeal process should a customer disagree with the Department's findings and determination for discontinuance.

The recommended Program proposes discontinuance due to nonpayment of water and wastewater services only. 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. Storm drainage service cannot be discontinued.

Implementation of the 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. The DOU proposes to begin implementing the Program in January 2014 following customer outreach beginning in Fall 2013.

Economic Impacts: None.

Environmental Considerations: The Community Development Department Environmental Planning Services has reviewed the project and has determined that the discontinuance of delinquent utility accounts is not considered a "project" under Section 15378(b)(2) of the California Environmental Quality Act (CEQA). 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.

Sustainability: DOU strives for fiscal sustainability in the utility enterprise funds. Write-offs are an expense to these funds which creates pressure to increase user rates. The proposed Program is anticipated to minimize expenses, lower write-offs, and increase net revenues in these enterprise funds. It supports budget sustainability and fiscal responsibility by providing an additional mechanism to ensure that customers pay 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.

Commission/Committee Action: Discontinuing service for nonpayment was a recommendation from the Utility Billing Processes Audit. The Audit Committee reviewed the proposed Program on April 30, 2013 and voted to forward the proposed Program for City Council review.

Rationale for Recommendation: One proven and effective collection tool that is used by utility agencies throughout the country is service discontinuance. 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 Program is predicted to reduce write-offs. Revenue capture is increased when fewer accounts are written-off.

Financial Considerations: The proposed Program provides the DOU with an additional tool for collecting on delinquent accounts. Currently the DOU assesses late

fees and penalties on delinquent accounts, and in the absence of discontinuing service, the Department places property liens on delinquent accounts. Each July, the City Council transfers the delinquent amounts to a special property assessment. The number of delinquent accounts sent to special assessment has increased since 2006, and the amount transferred has averaged over \$11 million annually for the past 5 years. The collection of these past due amounts is delayed which impacts cash flow and utilizes billing resources that could be allocated to other collection efforts. Essentially the DOU carries the delinquent amounts until payment is received from the County under the Teeter Plan, and the loss of interest on \$11 million dollars is estimated to cost \$200,000 annually. The Program is estimated to reduce write-offs by approximately \$650,000 and liability to Sacramento Regional County Sanitation district by \$100,000. The total estimated annual benefit is approximately \$750,000 and a significant portion of the interest associated with the Special Assessment process. While there will be some costs for the Program, net revenue will improve as a result of this Program.

Emerging Small Business Development (ESBD): Not applicable.

Background

The City of Sacramento Utility Billing Audit (Report #12-03) recommended that the Department of Utilities (DOU) consider implementing discontinuance of utility service for delinquent accounts. The audit report states, "Continuing to lien, and not turn off, delinquent accounts has had a considerable revenue impact on the Department." When compared to peer agencies DOU's write-offs are high, and "the goal... should be to have write-offs more in line with the entities... benchmarked."

The Audit Committee and City Council directed the DOU to examine the possibility of service discontinuance for nonpayment. A report was provided to the Audit Committee on April 30, 2013 and to City Council on June 25, 2013. Additional information was requested by City Council.

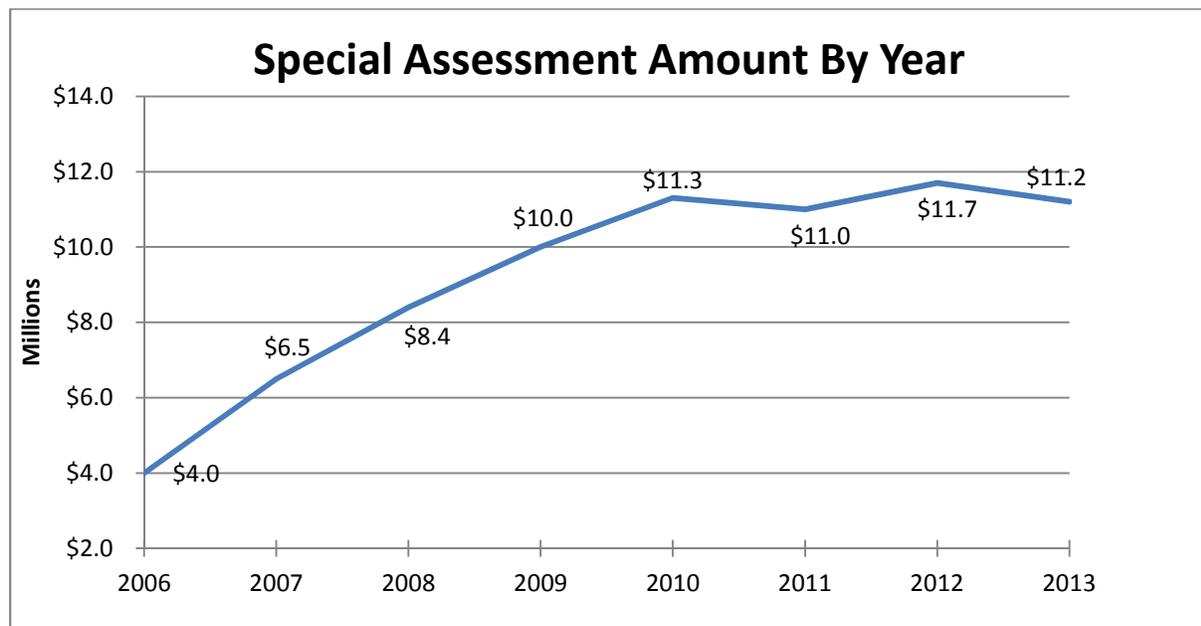
Customers Impacted: Council raised concerns regarding the proposed service discontinuance program (Program) and the impact on low-income neighborhoods. To address that concern, DOU analyzed data from the Special Assessment levy process in 2012, 2009 and 2007. Data from these three years was analyzed because they are representative of critical points in the housing crisis in the region. Special Assessment data was utilized because the accounts for the properties levied are all 75 days or more past due, which is consistent with the proposed timeline for generating a 30-day discontinuance notice. Customer accounts that are delinquent for three or more months are included in the Special Assessment process on an annual basis, and it is anticipated that a subset of these customers have the greatest potential to have service discontinued due to non-payment of utility bills. It is expected that the number of Special Assessment levies will reduce significantly as a result of the Program.

Analysis of the annual Special Assessment levies disclosed that many customers allow delinquent accounts to roll to their property tax bill via the Special Assessment process on an annual basis. Further review of customer data revealed that over 78 percent of these delinquencies are single-family homes, many of which are owned by a business, are owned by a Trust, and/or are owned by owners of multiple properties.

A query of the billing system as of June 2013 was conducted to identify those accounts that are currently 75 days or more past due by Council district and is depicted in the following table.

Number of Accounts 75 Days (or more) Past Due		
Council District	Total	Percent of Total
1	1,254	9%
2	2,616	19%
3	1,570	11%
4	893	6%
5	2,405	17%
6	1,716	12%
7	1,385	10%
8	2,032	15%
Grand Total	13,871	100%

Since 2006, the number of properties levied has doubled. However, the dollar amount levied on an annual basis has almost tripled. Over the last five years an average of \$11 million has been assessed with more than 75 percent, or approximately \$9 million, attributable to accounts that were assessed in previous years.



Sacramento County generates a property tax bill that includes the City assessment levies in October, at which time the delinquent amounts are a minimum of 9 months (270 days) past due, and up to 20 or more months (600 plus days) past due. Receipt of full payment from the County under the Teeter Plan takes an additional 10 months. Since collection of these past due amounts is significantly delayed, it impacts cash flow. Essentially the DOU carries the delinquent amounts, and the lost interest on \$11 million

dollars is estimated to cost \$200,000 annually. The proposed Program seeks to improve cash flow for the DOU by encouraging customers to stay current with their monthly utility charges billed, and save the DOU a significant portion of the lost interest.

Write-Offs: There is a correlation between the number of foreclosures and amount of write-offs related to closed accounts for the DOU. To address this issue, the Billing Audit report recommended using alternatives to liens as an opportunity to improve collections. As stated in the report, “over 80 percent of Account Final Write-Offs are on properties that had liens issued that were not transferred to a Special Assessment prior to property foreclosure.” The result is higher write-offs compared to other agencies. It is estimated that the proposed Program will reduce write-offs by \$650,000. The Program also better insulates the enterprise funds by minimizing the impact bad debt will have during future housing fluctuations.

Customer Safeguards: The proposed Program includes a number of safeguards for customers.

A customer’s service will not be discontinued if:

- The DOU is provided certification from a licensed physician that discontinuing service will result in a life-threatening situation;
- The customer provides the required documentation to verify that the occupant’s household income is less than \$25,000.

A customer has financial assistance options:

- Payment arrangements are available up to 12 months;
- The customer can apply to the Utility Rate Assistance Program which provides assistance to income-eligible households. Qualifying households are eligible to receive up to a discount on water and wastewater service charges on their monthly utility bill.

Other safeguards include:

- Termination of water service must be during business hours;
- Property owners may file a complaint or request an investigation prior to discontinuance;
- An appeal process is available to each customer;
- Options for residential tenants of single-family homes to pay the utility bill if a landlord fails to pay for services.

Liability: Under Public Utilities Code (PUC) § 10009.1, a public utility can be made liable to a residential customer or occupant for damages and costs resulting from the termination of water service, but only if the termination is made as a result of not complying with the procedures and requirements specified in the PUC (referred to in the PUC as a “wrongful termination”). These procedures and requirements include due process protections such as notice, the opportunity for the customer to file a complaint or request an investigation, and the right to appeal any determination made by the DOU before an independent hearing officer. The City’s proposed Program incorporates all of the procedures and requirements specified in the PUC, as well as some protections that go beyond what State law requires, including the prohibition on service discontinuance for low-income residents, and the proposed time line for discontinuance 105 days after the past due date (the minimum time period specified in Public Utilities Code §10010.1 is 15 days following the past due date).

Prior to implementation of the program, DOU staff will be trained to ensure that all procedures and requirements are followed. Adherence to these procedures and requirements by properly-trained staff will minimize the potential for liability arising from a wrongful termination of water service.

Recommendations: The DOU concurs with the Billing Audit Report which recommended implementation of a utility service discontinuance program and proposes the following:

- Implement a Program beginning in January 2014 after completion of a public outreach effort in Fall 2013.
- Establish procedures and provide training for staff prior to implementation.
- A notice of service discontinuance be issued once a property has been liened for delinquent charges, and/or when an account becomes 75 days past due. 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 pursue a complaint or appeal, service would be discontinued.
- Require the property owner to pay all delinquent utility service charges in order to prevent a termination of the water and sewer service.
- Pass the Resolution included with this report to appoint a hearing officer to hear appeals filed under City Code Chapter 1.24.

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

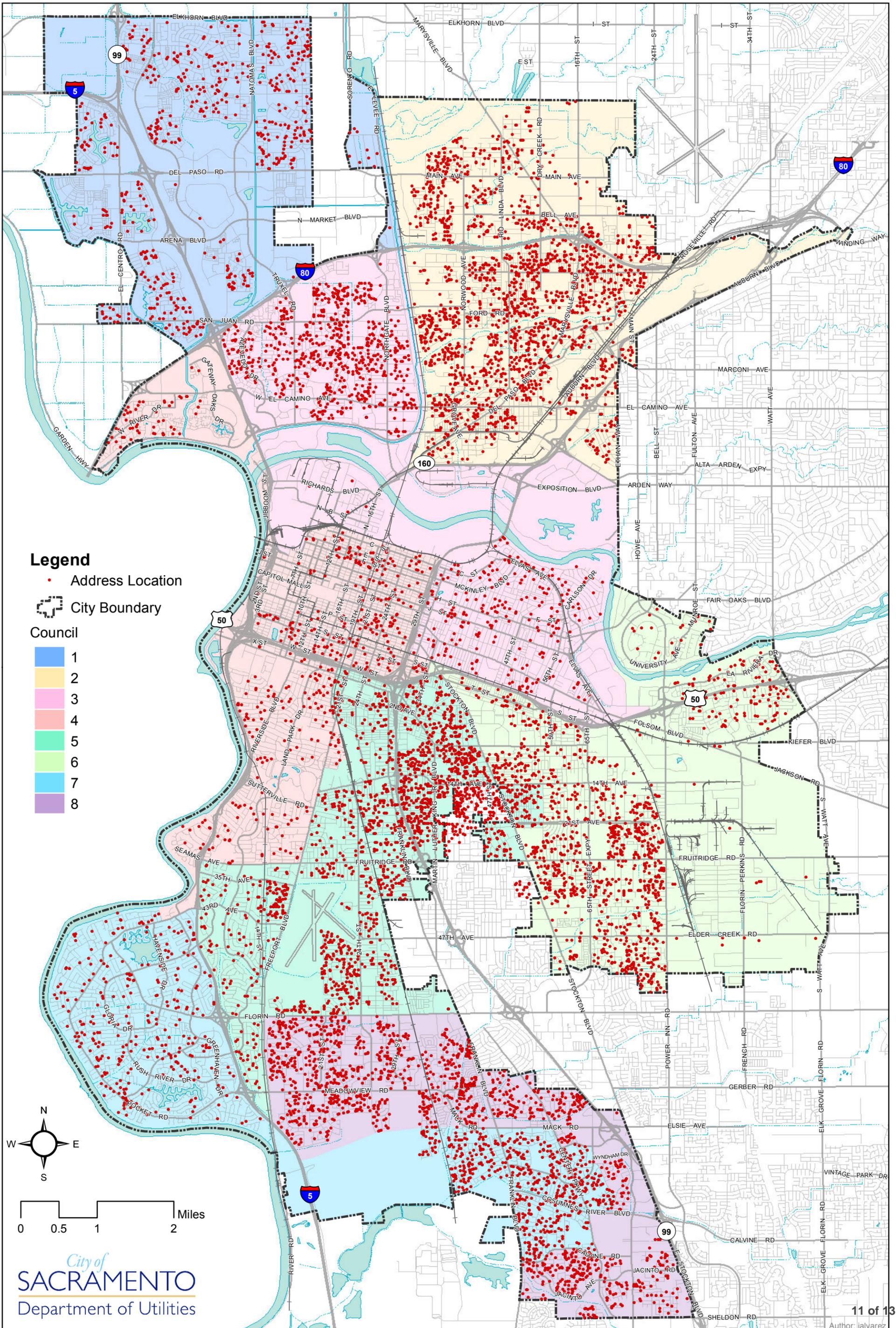
- A. Article III of Chapter 13.12 of the Sacramento City Code establishes procedures for the termination of City utility services when utility service charges are not paid. Under Section 13.12.130 of the Sacramento City Code, the City may initiate the termination procedure by sending a written notice 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.

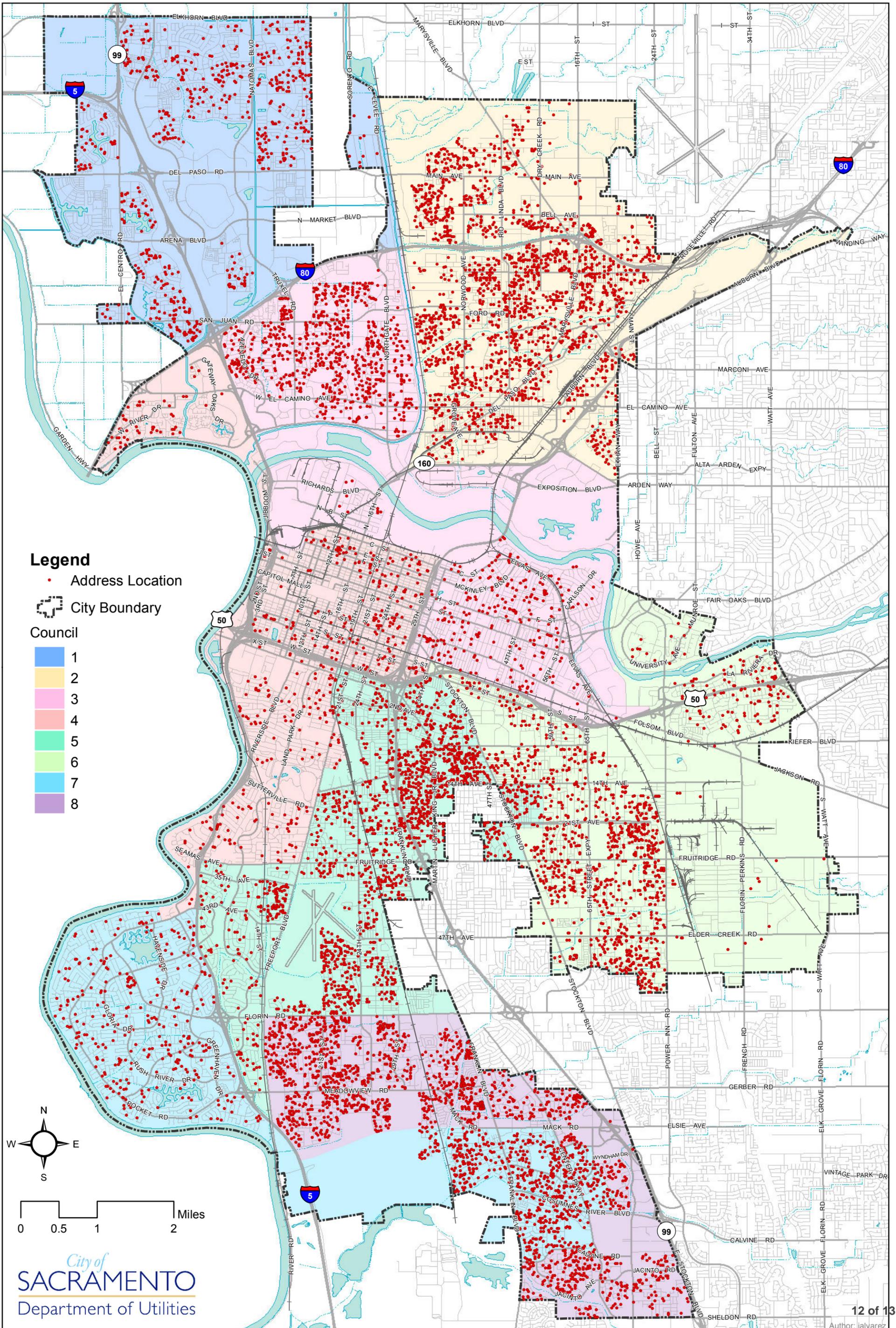
BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

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.

2012 Special Assessment Levies



2009 Special Assessment Levies



2007 Special Assessment Levies

