SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Benjamin Allen, Chair
2025 - 2026 Regular

Bill No:	SB 1168	**Hearing Date:**	4/13/2026
Author:	McNerney		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	Sarah Smith		

SUBJECT: Data centers: natural gas and electricity: surcharges

DIGEST: This bill establishes taxes on certain data centers' energy consumption to fund utility wildfire costs generally included in utility rates. Specifically, this bill establishes a tax on data centers' electricity consumption as a per-kilowatt-hour (kWh) surcharge on electricity used by those data centers with an electricity demand of 20 megawatts (MW) or greater. This bill also establishes a tax on data centers' natural gas consumption as a per-therm surcharge on gas used by all data centers. This bill requires the California Energy Commission (CEC) to annually establish the tax rate for both the electricity and natural gas surcharges. This bill requires electricity and natural gas utilities to collect the surcharge from data centers and remit those moneys to the California Department of Tax and Fee Administration (CDTFA) for the purpose of funding electric utilities' wildfire costs.

ANALYSIS:

Existing law:

1) Authorizes the California Public Utilities Commission (CPUC) to fix rates, establish rules, examine records, issue subpoenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities under its jurisdiction. (California Constitution, Article XII, §6)

2) Authorizes the CPUC to supervise and regulate every public utility in the state and do all things necessary and convenient in the exercise of such power. (Public Utilities Code §701)

3) Defines a "public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or a portion of the public. (Public Utilities Code §216)

4) Defines an electrical corporation as every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others. (Public Utilities Code §218)

5) Defines a "gas corporation" as every corporation or person that owns, controls, operates or manages any gas plant for compensation within this state. Existing law exempts entities using landfill gas under certain narrow circumstances from the definition of a "gas corporation." Existing law also exempts entities that make and use gas through private property solely for self-use or tenant use from the definition of a "gas corporation." (Public Utilities Code §222)

6) Requires all utility charges for products, commodities, and services to be just and reasonable. Existing law requires every public utility to maintain adequate, efficient, just, and reasonable service, equipment, and facilities, including telephone facilities, to promote health, safety, and comfort. (Public Utilities Code §451)

7) Authorizes the CPUC to assess the extent to which new data center loads may result in cost-shifts to other electrical corporation customers. Existing law requires this assessment to identify opportunities to prevent or mitigate any substantial cost shifts. Existing law requires the CPUC to publish the assessment and submit it to the relevant policy committees of the Legislature by January 1, 2027. (Public Utilities Code §913.22)

8) Establishes the Natural Gas Surcharge to help fund low-income rate assistance programs, low-income energy efficiency and weatherization programs, and research and development activities. Existing law requires every person consuming natural gas in-state to pay this surcharge, and it requires the CPUC to annually establish the surcharge rate for each customer class of each gas utility. Existing law specifies that a customer receiving gas through an interstate gas pipeline must pay the same surcharge rate as the customer would pay if the customer received service from the gas corporation in whose service territory the customer is located. Under existing law, each gas utility must collect the surcharge as a separate line item on a customer's bill. Existing law requires the State Board of Equalization to administer the collection of the surcharge from gas utilities. (Public Utilities Code §890 et. seq.)

9) Establishes the Energy Resources Surcharge Law, which assesses a tax on in-state electricity consumption at ($0.0003) per kWh. Existing law requires the CEC to set the surcharge on an annual basis in a public meeting each November.

Existing law requires every retail electricity provider to collect the surcharge on customer bills. Revenues from the Energy Resources Surcharge are deposited into the Energy Resources Program Account (ERPA) within the General Fund to support the administrative functions of the CEC. Funds from the ERPA are subject to appropriation by the Legislature in the Budget Act. (Revenue and Taxation Code §40001 et. seq.)

10) Defines "tangible personal property" for the purposes of sales and use tax law as personal property that can be seen, weighed, measured, felt, touched or perceived by the senses in any other way. Tangible personal property generally includes any leased fixtures if the lessor can remove the fixtures upon breach or termination of the lease. Tangible personal property does not include telephone or electrical lines or any electrical poles, towers, and conduits supplying power. (Revenue and Taxation Code §6016-6016.5)

This bill:

1) Defines a "data center" as facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be either of the following: a freestanding structure or a facility within a larger structure that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment used to process, store, and transmit digital information.

2) Establishes two separate taxes on data centers' energy use:

   a) An unspecified surcharge gas consumed by a data center located in the state or a person that consumes natural gas to produce electricity primarily for a data center. This bill requires the surcharge to apply to the volumetric use of gas on a per-therm basis, and it imposes the surcharge as of January 1, 2027.
   b) An unspecified surcharge on electricity consumed by a data center with a capacity of at least 20 MW located in the state. This bill requires the surcharge to apply to the volumetric use of electricity on a per-kWh basis, and it imposes the surcharge as of January 1, 2027.

3) Requires the CEC to annually set the data center gas and electricity surcharge rates each November for the next calendar year.

4) Clarifies that the gas surcharge collected pursuant to this bill is in addition to any other charges assessed for natural gas consumption, and it must be identified as a separate line item on the gas utility bill. The electricity surcharge established by this bill is not required to be identified as a separate line item under this bill.

5) Establishes certain liability and accounting requirements for collecting and remitting the surcharges established by this bill.

6) Authorizes certain data centers to obtain exemptions from this bill's surcharges if the data center uses electricity or natural gas for manufacturing tangible personal property or is exempt from the existing natural gas or energy resources surcharge.

7) Specifies that gas and electrical corporations are not required to obtain approval from the CPUC before collecting the surcharges required by this bill.

8) Requires every gas and electric utility in the state to register with CDTFA for the purpose of remitting surcharge the surcharge revenue to CDTFA. This bill requires utilities to remit surcharge revenue to CDTFA on a quarterly basis.

9) Establishes CDTFA as the agency responsible for administering and collecting the tax revenue generated by the surcharges imposed by this bill.

10) Establishes the Data Center Excess Energy Use Surcharge Fund in the Treasury and requires all surcharge revenue from this bill to be deposited into this fund. This bill specifies that CDTFA expenses for administering the surcharge will be covered by revenues from the surcharges.

11) Continuously appropriates funds from the Data Center Excess Energy Use Surcharge Fund for the following purposes:

    a) Revenues collected within local, electric publicly owned utility (POU) service territories are continuously appropriated to the CEC, and the CEC must apportion the funds to POUs to cover wildfire costs generally recovered in rates.
    b) Revenues collected within electrical corporation territories are continuously appropriated to the CPUC, and the CPUC must apportion the funds to electrical corporations to fund wildfire costs generally recovered in rates.

Background

Unmanaged data center growth in other states has led to concerns about their energy impacts. Data centers have long existed in California to store and transport data necessary for a variety of internet-based services, including telecommunications systems, cloud computing, streaming video, software development, and electronic file storage. The rapid growth of certain services,

including cloud-based computing and artificial intelligence (AI) has led to substantial data center growth. Certain states have experienced an unusual amount of this growth without a regulatory framework in place to ensure that costs associated with building new transmission and distribution, adding new generation, and securing sufficient reliability resources do not impact other ratepayers. Pennsylvania – New Jersey – Maryland Interconnection (PJM) operates the largest regional grid in the United States. In January 2026, data from PJM indicated that 40% of its expected increased electricity demand will come from data centers. With this increase in load, PJM has seen record high costs in certain electricity markets, substantial new transmission costs, and challenges in procuring adequate resources to ensure that it can reliably meet peak electricity demands. Consumers in four states within PJM territory paid over $4 billion in 2024 alone for transmission projects serving data centers.

Data centers are growing in California, but they may not be the most significant driver of future load growth. California has experienced load growth associated with data center expansion; however, this growth has been more gradual than the increased demand experienced by some other states. The CEC, CPUC and California Independent System Operator (CAISO) have all projected varying increases in load from data centers. In forecasts focusing on near term demand, the CEC has shown that CAISO may experience a 1.8 gigawatt (GW) load growth from data centers by 2030. However, the CEC's energy demand forecast covering 2025 through 2045 indicates that vehicle electrification will be the largest driver of peak electricity demand in the state by 2045. While data centers are expected to increase peak electricity demand by 4.7 GW by 2045, electric vehicles (EVs) may contribute approximately 8.2 GW to peak demand. Regardless of the sector contributing to the largest share of future energy costs, serving these future loads will necessarily require additional resources. To address these needs, the CPUC has ordered utilities under its jurisdiction to collectively procure 6 GW of new zero emissions energy resources by 2032. This 6 GW procurement is intended to cover near-term load growth and account for delays in delivering previously planned renewable resources, including off-shore wind resources.

Bill attempts to offset ratepayer costs associated with rising utility wildfire costs. This bill requires data centers to pay an unspecified surcharge on electrical and gas consumption to fund utility costs for wildfire mitigation that are generally included in rates. Wildfire-related utility costs may cover a range of different mitigation efforts, including, but not limited to, vegetation management, infrastructure hardening, and infrastructure reconstruction and recovery following wildfires. Rate increases from utilities' wildfire mitigation efforts have increased in recent years. According to the CPUC Public Advocate's Office (PAO), wildfire costs may comprise between 10% to 24% of a utility's total revenue requirements for the

state's three largest investor-owned utilities (IOUs). A 2024 report from the PAO indicates that wildfire related costs in Pacific Gas & Electric (PG&E) territory increased by 117% between January 2023 and April 2024.

This bill is aimed at obtaining revenues from data centers to limit rate impacts of utility wildfire mitigation costs on other customers. Generally, wildfire costs approved for rate recovery by the CPUC are collected from ratepayers across the different rate classes. Rate design for each utility's rate classes are intended to ensure that rates for each type of ratepayer cover their reasonable share of utility costs, including those for wildfire. Data centers are generally included in the commercial and industrial rate classes and pay rates structured to reflect costs that the CPUC determines are just and reasonable for those types of ratepayers. However, increasing utility costs associated with wildfires, new infrastructure needs, and increasing loads from large energy consumers, including data centers, has raised concerns that existing rate structures may not be sufficient to address cost shifts within rate classes and between rate classes.

Bill would create a new precedent for assessing surcharges on a specific type of energy consumer. While this bill contains provisions that are substantially similar to requirements for collecting the Natural Gas Surcharge and the Energy Resources Surcharge, this bill would establish surcharges that differ from those surcharges by assessing a tax on a single type of ratepayer to offset costs that are included in rates. Unlike the existing surcharges, this bill does not specify a specific surcharge rate or a maximum surcharge rate. Instead, this bill would require the CEC to set the surcharges on an annual basis for the forthcoming calendar year. Currently, the CEC does not oversee utility rates or wildfire safety issues. It is unclear if the CEC would be able to accurately assess a surcharge to address rates set by the CPUC and POUs' local boards.

The CPUC is in the process of considering proposals to address rate impacts from utility costs, including those associated with data centers and wildfires. In addition to ordering new procurements to serve future load growth, the CPUC is also considering new tariffs and rate structures to prevent large loads from unduly burdening other ratepayers. In November 2024, PG&E filed an application at the CPUC to establish a new electric rule for retail electricity customers seeking interconnection at the transmission level. (Application 24-11-007). According to PG&E's filings, data centers were 67% of the 34 transmission interconnection applications that PG&E received between 2023 and November 2024. In July 2025, the CPUC issued an initial decision (D. 25-07-039) that approved an interim PG&E electric rule for data centers that pre-pay the cost of interconnection. On April 9, 2026, the CPUC started the process to open a rulemaking on the California Advanced Electric Rate Design. As part of this proceeding the CPUC intends to

explore opportunities to address affordability challenges associated with wildfire costs and rapid load growth, including load from data centers. The proposed decision indicates that the CPUC intends to publish a staff proposal on residential rate reform as part of this proceeding in the 3rd Quarter of 2026.

Bill may pose concerns about cost shifts between utilities. Wildfire costs vary widely between utilities. While some utilities have proportionately very high wildfire risks, other utilities may have little to no wildfire risks. Generally, electrical utilities have much higher wildfire risks than gas utilities due to maintaining high voltage lines in areas of the state prone to wildfires. Data centers are not necessarily located in electrical utility service territories with the highest wildfire risks. As a result, the majority of revenue from surcharges on data centers' energy consumption may come from utility service territories that do not have high wildfire expenses in their rate structures. For example, a substantial number of data centers exist in the City of Santa Clara, which is not located in a Tier 2 or Tier 3 fire threat area. Data centers in the City of Santa Clara are electric customers of Silicon Valley Power, a local POU; however, they may also be gas customers of a PG&E. This bill requires revenues collected in POU territory to be used for POU wildfire rates, and it requires revenues collected from IOU territory to be used for IOU wildfire rates; however, this bill does not clarify how surcharge revenues are handled when a data center is a customer of both an IOU and a POU. Additionally, this bill requires utilities to collect the surcharge on the basis of volumetric rates to fund costs that are generally associated with transmission and distribution infrastructure. As a result, community choice aggregators (CCAs) may need to collect surcharge revenues from data centers on their volumetric electric rates while those revenues are ultimately used to pay for wildfire costs associated with the IOU transmission and distribution infrastructure serving CCA customers. This bill also does not clarify whether revenues collected within a specific utility service territory will be returned to offset costs for that specific utility. To the extent that POUs remit surcharge revenues that are used to offset wildfire costs of other POUs, this bill may result in cross-subsidization of other utilities.

Scope of facilities impacted by the bill may have unintended consequences. This bill would require every data center in the state that receives natural gas service to pay the gas surcharge established by this bill. This bill also establishes an electricity surcharge on electricity consumption by data centers with capacities of at least 20 MW or greater. As a result, the surcharges established by this bill do not apply to the same data centers. Some smaller data centers that receive natural gas service but have lower electrical loads will not pay the electricity surcharge established by this bill. Additionally, this bill's definition of a data center potentially encompasses many different types of facilities, including the telecommunications system, research labs, academic facilities, and facilities operated by federal, state and local

agencies. Assessing the surcharges on these facilities may result in cost shifts to other taxpayer and ratepayer funded services.

Need for Amendments. This bill establishes a framework for taxing data centers' energy consumption to pay for wildfire costs generally collected in rates; however, the bill's surcharge framework may result in cross-subsidization between utilities and may result in certain critical facilities paying surcharges that do not reflect their true cost to electrical or gas system. Additionally, the CPUC is already in the process of considering changes to rate design to address the extent to which wildfire costs and costs to serve new large loads can be structured to alleviate rate pressures for ratepayers. *For these reasons, the author and committee may wish to amend this bill to do the following:*

- *Delete the current contents of this bill.*
- *Instead require the CPUC, as part of a new or existing proceeding, to assess opportunities for rate structures to do the following:*
- *Ensure that data centers pay a reasonable share of costs associated with transmission and distribution costs, regardless of whether they are interconnected at the transmission or distribution level.*
- *Identify mechanisms to ensure that data centers pay for their proportionate share of load increases and procurements needed to reliably serve those loads with non-emitting resources.*
- *Structure rates to alleviate cost pressures on residential ratepayers, including customers enrolled in the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) programs.*

Dual Referral. Should this bill be approved by this committee, it will be re-referred to the Senate Revenue and Taxation Committee.

Prior/Related Legislation

SB 886 (Padilla) of 2026, requires the CPUC to establish a specified electrical corporation tariff that addresses costs associated with transmission, distribution, and generation services for data centers with a peak capacity of 25 MW or greater that request a new transmission interconnection. The bill requires this tariff to include a reasonable share of the costs relating to wildfire mitigation, wildfire liability, electrification and environmental programs, and other costs typically collected from distribution-level ratepayers. The bill is pending in the Senate Appropriations Committee.

SB 887 (Padilla) of 2026, establishes certain permitting permissions for data centers that meet specified criteria. These criteria include provisions similar to the

requirements for the tariff specified in this bill. The bill is pending in this committee.

SB 978 (Pérez) of 2026, requires the CPUC to create a special rate structure for certain large energy users with capacities of at least 75 MW to prevent cost shifts to other customers. The bill would also establish labor requirements for the construction of facilities subject to the bill. The bill would expand existing CPUC reporting requirements about large loads to include a specified assessment about increased load impacts to renewable procurement goals. The bill is pending in the Senate Labor, Public Employment and Retirement Committee.

SB 57 (Padilla, Chapter 647, Statutes of 2025) authorized the CPUC to assess the extent to which electrical corporation costs for new loads from data centers result in cost shifts to other electrical corporation customers. The bill also required the CPUC to publish and submit a report regarding its assessment to the relevant legislative policy committees by January 1, 2027.

AB 222 (Bauer-Kahan) of 2025, would have required the CPUC to assess the extent to which electrical corporation costs for serving data centers result in cost shifts to other customers. The bill also required the CEC to establish a process for data centers to submit specified energy efficiency data to the CEC, and it required the CEC to assess data centers' energy consumption. The bill was held by the Senate Appropriations Committee.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

SUPPORT:

Climate Action California
The Utility Reform Network
An Individual

OPPOSITION:

Associated General Contractors, California Chapters
Bay Area Council
Building Owners and Managers Association of California
CalAsian Chamber of Commerce
California African American Chamber of Commerce
CalBroadband, unless amended
California Business Properties Association
California Chamber of Commerce

California Hispanic Chambers of Commerce
California State Association of Electrical Workers
California State Pipe Trades Council
California Taxpayers Association
CTIA - the Wireless Association, unless amended
Data Center Coalition
NAIOP California
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Edison
Southern California Gas Company
TechCa
TechNet
US Telecom - the Broadband Association, unless amended

ARGUMENTS IN SUPPORT: According to the author:

> Californians pay the second-highest utility prices in the country, and rates are expected to soar even higher because of the rapid growth of data centers around the state. Data center owners and their customers should bear the high costs associated with data centers, not California ratepayers. SB 1168 will ensure data centers pay their fair share by covering the costs of rate assistance programs for California families and low-income residents.

ARGUMENTS IN OPPOSITION: In opposition, the California State Association of Electrical Workers and the California State Pipe Trades Council state:

> …the bill would disincentivize data centers from locating in California. Data centers use a massive amount of electricity. Increased electricity consumption spreads the cost of the electric grid across more kWh, so the average rates for all customers will go down. This has already been seen with transportation electrification. A 2024 NRDC/Synapse analysis found that electric vehicles have already put downward pressure on rates by bringing in $2 billion in revenue above the cost to upgrade the grid to accommodate EV charging. And, as rates go down due to increased electricity from EVs, data centers, etc., more customers will electrify, creating a positive cycle of electrification and continued downward pressure on rates.

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