

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

SB 445 (Wiener) – As Amended July 9, 2025

**SENATE VOTE:** 34-1

**SUBJECT:** High-speed rail: third-party permits and approvals: regulations

**SUMMARY:** Requires the California High-Speed Rail Authority (CHSRA) to develop and adopt regulations governing third-party permits and approvals. Of relevance to this committee, these CHSRA regulations would include requirements on both investor-owned (IOU) and publicly-owned (POU) utilities – broadly inclusive of electric, gas, water, telecommunications, and other utilities – and largely involve relocation agreements between utilities and the CHSRA to move utility infrastructure in the project’s path. Specifically, **this bill:**

- 1) Requires CHSRA by January 1, 2026, to develop and adopt regulations governing third-party permits and approvals that are necessary to deliver the high-speed rail project and ensure that the regulations do all of the following:
  - a. Require early engagement between third parties and CHSRA;
  - b. Identify the circumstances under which CHSRA shall seek to enter into a cooperative agreement with each applicable third party that serves as the framework for all future project interactions and, where relevant, identifies who is responsible for specific utility relocations and the associated costs;
  - c. Require regular meetings with third parties during the planning, design, and construction phases;
  - d. Require the CHSRA to establish cost estimates with conservative contingency budgets for each utility relocation and to not oversimplify the utility costs and potential risks by bundling those costs into a single item;
  - e. Require regular communication and documentation of contracting terms, conditions, and decisions during construction;
  - f. Define options that can govern a third-party review process for permits and approvals;
  - g. Consider ways to reduce permitting and approval delays;
  - h. Establish a binding dispute resolution process;
  - i. Exempt gas corporations and electrical corporations that the Public Utilities Commission (CPUC) regulates from the dispute resolution process;
  - j. Prohibit third-party entities from insisting on exactions or betterments from CHSRA that are unrelated to ensuring that health and safety standards are met, unless otherwise stipulated by a cooperative agreement, as a condition for permits and approvals;
  - k. Consider reimbursement of third-party staff time and third-party time and materials to relocate the utility; and,
  - l. Define the terms “betterment” and “cooperative agreement” for purposes of the regulation.
- 2) Requires CHSRA to consult with all of the following entities when developing the regulations: California Department of Transportation (Caltrans); CPUC; local

government stakeholders; local publicly owned utilities, gas corporations, and electrical corporations; water districts; telecommunications companies; passenger and freight railroads; and any other relevant entities with expertise in transportation infrastructure project delivery.

- 3) Requires CHSRA to hold at least two public hearings regarding the proposed regulations before adopting them.
- 4) Requires CHSRA to post a public notice on its website when it adopts the regulations and not enter into a third-party agreement until 30 days after the public notice is posted.
- 5) Prohibits CHSRA from implementing these regulations until it completes the development and implementation of a process to review third-party agreements in a timely manner as recommended by the High-Speed Rail Authority Office of the Inspector General (OIG-HSR) in Recommendation 25-R-02-02.
- 6) Includes a severability clause.

#### **EXISTING LAW:**

- 1) Establishes and vests the CPUC with regulatory authority over public utilities, including electric, gas, water, and telecommunications IOUs. Authorizes the CPUC to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. (Article XII of the California Constitution and Public Utilities Code § 451)
- 2) Authorizes the CPUC to supervise and regulate every public utility in the state and do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code § 701)
- 3) Defines various entities within the Public Utilities Code, including “public utility,” “electrical corporation,” “gas corporation,” “local publicly owned electric utility,” and others. (Public Utilities Code §§ 201-248)
- 4) Creates CHSRA in the California State Transportation Agency with 11 members: five appointed by the Governor, two appointed by the Senate Committee on Rules, two appointed by the Speaker of the Assembly, and one each ex-officio member appointed by the Senate and Assembly. (Public Utilities Code § 185020)
- 5) Requires CHSRA to direct the development and implementation of an intercity high-speed rail service. (Public Utilities Code § 185030)
- 6) Requires CHSRA to reimburse utilities for relocation costs under specified circumstances. It also requires the utility “to move its facilities as soon as reasonable possible so as not to delay high-speed rail construction” under specified circumstances. (Public Utilities Code §§ 185501-185505)
- 7) Creates the OIG-HSR to initiate an audit or review regarding oversight related to delivery of the project, and the selection and oversight of contractors related to the project. (Public Utilities Code §§ 187000, *et sec.*)

- 8) Requires Caltrans to specify for a utility relocation a reasonable time within which the work of relocation shall commence. (Streets and Highways Code § 680)
- 9) Establishes special provisions and requirements for Caltrans when relocating utilities within and outside freeways. (Streets and Highways Code §§ 700-707.5)

**FISCAL EFFECT:** Unknown. This bill was significantly amended in the Assembly. It is keyed fiscal, and will be referred to the Assembly Committee on Appropriations for its review.

**CONSUMER COST IMPACTS:** Unknown.

### **BACKGROUND:**

*Utility Relocations: A Cause of Transit and Rail Project Delay* – Utility relocations are one of the causes of delay in transit and rail construction, often affecting the scope, schedule, and cost of a project. City streets and rights-of-way are filled with underground and overhead utilities – including water, gas, electricity, telecom, sewer, and more – owned by various private and public entities. Some, like fiber optics or secure communications near federal or law enforcement buildings, require special handling. Utility conflicts may arise when these systems interfere with the planned guideway, stations, drainage, or other infrastructure, requiring relocation, protection-in-place, or abandonment.

Relocating utilities is a complex and multi-layered task. Utilities may be discovered during construction that were not found during design, leading to unexpected delays. Coordination is often difficult due to multiple utility owners, differing schedules, permit processes, and the need to negotiate rights-of-way and betterments (i.e., improvements to utilities that increase their capacity beyond what’s required for relocation). Projects near intersections, sidewalks, or in dense urban environments face additional challenges, especially with overlapping electrical systems or underground congestion. Changes made during construction can trigger further relocations, increasing delays.

*Need for Proactive Utility Management* – Effective management of utility relocations is essential to keeping transit and rail projects on time and within budget. According to a 2022 Federal Transit Association (FTA) report,<sup>1</sup> early and ongoing engagement with utility stakeholders is key. The FTA highlights six best practices to reduce risk:

1. *Preplanning:* Develop utility relocation agreements early to define responsibilities and costs.
2. *Regular meetings:* Hold weekly coordination meetings throughout planning and construction.
3. *Cost realism:* Establish detailed cost estimates with contingency buffers. Don’t oversimplify or bundle utility costs.
4. *Partnering sessions:* Clarify roles and streamline communication for quicker decision-making.

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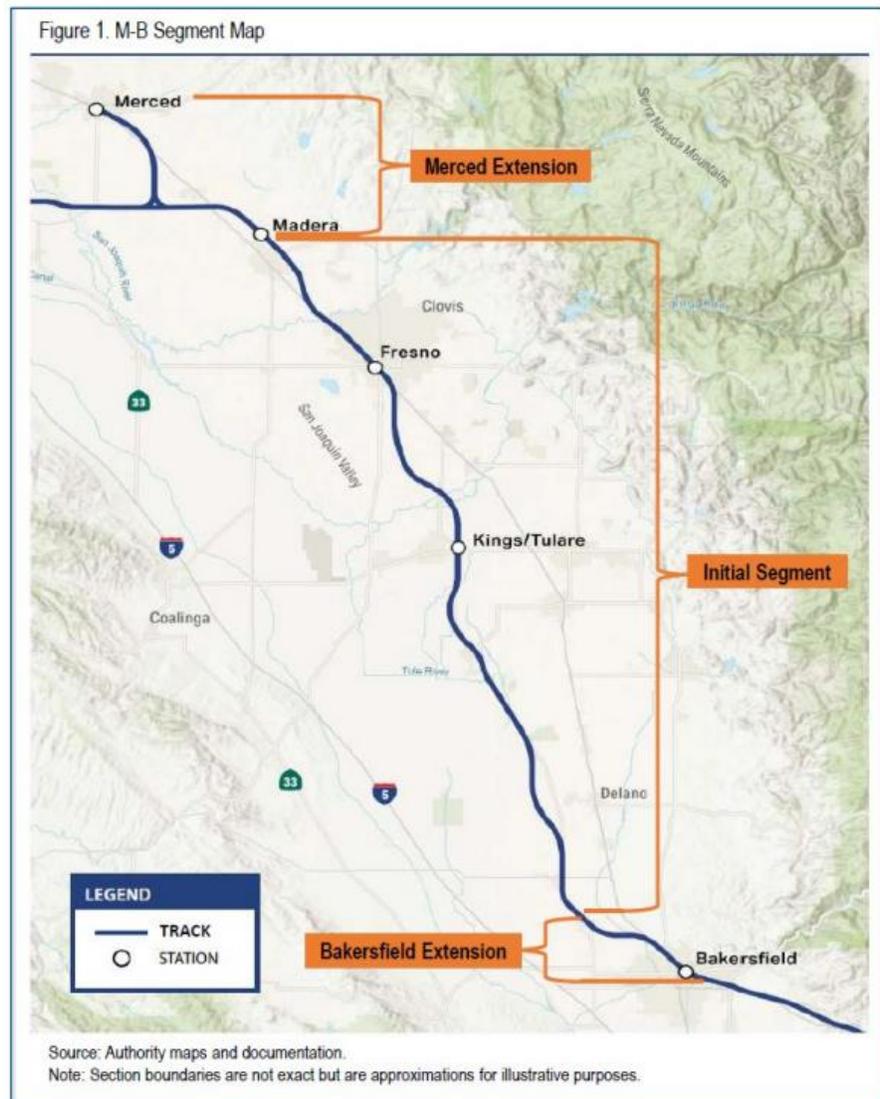
<sup>1</sup> FTA; “Utility Relocation – Challenges and Proposed Solutions;” March 2022; <https://www.transit.dot.gov/sites/fta.dot.gov/files/2022-03/Utility-Relocation-Challenges-and-Proposed-Solutions.pdf>

5. *Segmented construction*: Divide the project into manageable sections to begin construction as utilities are cleared.
6. *Ongoing communication*: Maintain clear documentation of all decisions, terms, and conditions during the life of the project.

CHSRA – The California High-Speed Rail Authority (CHSRA) was created by SB 1420 (Kopp, Chapter 796, Statutes of 1996) to plan and build a high-speed rail system connecting major population centers in the state. In 2008, voters approved Proposition 1A, which authorized \$10 billion in general obligation bonds to help fund the project and set performance requirements, including a maximum travel time of 2 hours and 40 minutes between San Francisco and Los Angeles. Since then, the project has faced major obstacles, primarily due to insufficient funding, delays in acquiring land, and issues from relocating utilities. As of May 31, 2025, \$14.4 billion has been spent, mostly on the Merced to Bakersfield segment, as shown in Figure 1.<sup>2</sup>

*The Inspector General* – In 2022, Senate Bill 198 (Committee on Budget and Fiscal Review, Chapter 71, Statutes of 2022) established the Office of the Inspector General for High-Speed Rail (OIG-HSR), which has since completed six reviews of the project. In its February 2025 report,<sup>3</sup> the OIG-HSR

recommended that the Legislature authorize CHSRA to adopt regulations setting timelines for third-party reviews and approvals. The review found that current CHSRA procedures do little to speed up these third-party reviews. In particular, utility relocation work has been delayed by prolonged negotiations – some lasting nearly two years – over reimbursement agreements that



<sup>2</sup> CHSRA Office of the Inspector General, *Pre-Construction Activities for the Merced and Bakersfield Extensions: Persistent Delays in Securing Agreements with Third Parties Require New Solutions*; February 21, 2025; <https://hsr.ca.gov/wp-content/uploads/2025/02/Early-Works-Engagement-FINAL-A11Y.pdf>

<sup>3</sup> *OIG-HSR Pre-Construction report; Ibid.*

are needed before construction can begin. More concerning, the OIG-HSR report notes CHSRA has sometimes moved forward with designs without utility owner approval, increasing the risk of costly redesigns later.

The OIG-HSR also noted that third parties, such as utility companies, have little incentive to prioritize negotiations, contributing to delays. CHSRA staff reported that past agreements included overly generous terms, such as reimbursing attorney fees or committing to unrealistic timelines. These past concessions now make current negotiations harder, as some third parties expect similar terms. The lack of standardized agreements also continues to complicate and slow down the approval process.

#### COMMENTS:

- 1) *Author's Statement.* According to the author, "California High-Speed Rail is critical for our state's future. The project is already combating climate change, fostering transit-oriented development, and creating thousands of good-paying union jobs. The project is essential for an abundant, affordable, zero-emissions future. It is imperative to help the project cut through permitting and approval-related red tape in order to prevent project cost increases and accelerate project delivery. It shouldn't be this hard to go through design review and approvals or to relocate utilities. There shouldn't be so many veto-points that empower project skeptics or opponents to stall the delivery – particularly after the voters approved funding for the project and design and construction are underway. SB 445 implements a High-Speed Rail inspector general recommendation to cut red tape, streamline the project delivery process, curtail veto-points, and reduce and contain project costs. The bill will result in improved and more cost-effective delivery of California High-Speed Rail, ensuring that public dollars are wisely spent on the project."
- 2) *Purpose of Bill.* As noted by both the author and OIG-HSR, third-party engagement, permitting and construction activities, and in particular utility relocations, have been found to cause significant and costly delays to the project. As one of the biggest, if not the biggest, infrastructure projects the state has endeavored, CHSRA is understandably the edge case in needing to resolve many of these conflicts in a unified, comprehensive, and timely manner. Given the size and scope of CHSRA and the requirement in Proposition 1 that CHSRA build the project along existing transportation and utility corridors,<sup>4</sup> the level of interaction between CHSRA and third-parties has been and will be extensive. IOUs in the teleco, electric, and gas space, alongside POUs in the electric, water, sewer, and irrigation space are all likely implicated; as well as local cities, counties, and special districts that have permitting and other planning requirements with CHSRA. To date, as pointed out by OIG-HSR, interactions between CHSRA and third-parties have had mixed results. This bill seeks to create a unified regulatory framework to determine these interactions and lead to more positive outcomes for the project. These are laudable goals. However, in granting the CHSRA broad regulatory authority over all utilities and local agencies in the state, the regulatory structure envisioned by this measure is unlikely to appropriately balance the needed considerations inherent with utility service – namely: safety, reliability, and access.

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<sup>4</sup> Pg. 8; OIG-HSR Pre-Construction report; *Ibid.*

- 3) *All Parties Need Improvement.* Internal processes at the CHSRA have also contributed to delays. In its February 2025 review,<sup>5</sup> the OIG-HSR found that some third-party delays stem from shortcomings in CHSRA's project management procedures. Specifically, CHSRA lacks clearly defined timelines for negotiations and has not communicated timeframes to third parties, something the OIG-HSR said could help streamline the process. The OIG-HSR recommended that by May 2025, CHSRA's third-party agreements and procurement branches develop procedures with set timeframes for internal reviews, including guidelines for how long staff should try to resolve issues before escalating them. The report also advised CHSRA to improve its internal tracking systems and hire more legal staff if necessary. CHSRA agreed with these recommendations. However, as of the time this analysis was published, the committee is unaware of the status of implementation. The analysis of this measure by the Assembly Committee on Transportation noted their understanding that the recommendations have not been fully implemented. Fully addressing them remains essential to improving project delivery.

Nevertheless, rather than providing impetus for CHSRA to implement these OIG-HSR recommendations and resolve their internal processes, this bill grants CHSRA broad regulatory powers over all utilities and local agencies in the state. This shifts the power dynamic between CHSRA and third-parties to favor CHSRA and the HSR project completion. The bill even acknowledges this emphasis by framing the new regulations around what is necessary to deliver the HSR project. This is an understandable approach given ongoing frustration with the delay caused by extensive design reviews and relocation challenges. To date, as reported by CHSRA staff,<sup>6</sup> third-parties have little incentive to engage, much less engage in a timely fashion, especially when extensive design review is needed for the HSR project, requiring work and cost on the part of the third-parties for activities they wouldn't otherwise perform.

However, a balance must be struck to responsibly motivate utilities and local governments to participate in and prioritize HSR project needs and delivery, without creating a regulatory structure that highly favors the CHSRA and its preferred outcomes. The structure in this measure, in granting regulatory authority to CHSRA to adopt regulations governing the behavior and actions of third-parties CHSRA depends on for project delivery, is unlikely to foster a space for neutral arbitration.

- 4) *Moving Utility Infrastructure Necessitates Technical Expertise.* Relocating utility infrastructure is commonplace in most major transit projects, including most notably during California's construction of its freeway system.<sup>7</sup> However, one important consideration with such relocations is the critical services most utility infrastructure provides; where access to water, sanitation, electricity, and gas service is often necessary for the health, safety, and comfort of residents and the operations of our economy. Regulations imposing timelines, conditions, and binding resolution processes upon utilities for work that may impact delivery of their critical services should be significantly informed by parties with technical expertise on potential utility service interruptions, reduction in service quality, consequences of temporary outages, or even existing

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<sup>5</sup> OIG-HSR Pre-Construction report; *Ibid.*

<sup>6</sup> In the OIG-HSR Pre-Construction report; *Ibid.*

<sup>7</sup> as noted in the Assembly Committee on Transportation's analysis of this measure

priorities and project constraints impacting utility decisionmaking. For instance, electric utilities have various state and federal mandates for meeting service reliability; otherwise, they face the potential for significant fines. This bill acknowledges the need for the CHSRA regulations to include both those with expertise on the HSR project as well as those with utility expertise, in requiring the CHSRA to consult with the CPUC and the utilities themselves. However, the outcome or fullness of that consultation, especially if the CHSRA and the utilities disagree on priorities, is uncertain. In other words, nothing in the proposed regulatory structure in the bill requires CHSRA to incorporate feedback from utility experts or reach mutually agreed upon solutions.

- 5) *Who Pays?* One of the largest causes for delay highlighted in the OIG-HSR report involved CHSRA executing reimbursement agreements on utility relocation designs. CHSRA had decided, after reviewing opportunities for project efficiencies following the initial segment, to split agreements with utilities covering both the design review and subsequent facility relocations into two separate streams, thinking that the design review could move more expeditiously. According to OIG-HSR, CHSRA refers to the design review agreement as a *reimbursement agreement* because it establishes the process by which CHSRA pays the utility owner for its effort spent reviewing and providing comments on utility relocation designs as well as providing information about the property affected. However, the design review agreements have instead led to significant delays, some lasting for over two years.<sup>8</sup>

This bill acknowledges cost allocation as an area of needed clarity and agreement, by having CHSRA establish specified cost estimates that do not oversimplify the costs or risks; prohibiting third-parties from insisting on exactions or betterments, and having CHSRA define those terms; and having CHSRA consider reimbursement of third-party staff time and materials. However, many utilities have raised concern that these provisions of the bill are inadequate, especially as existing law requires CHSRA to “pay the cost of the relocation” for both IOU and POU infrastructure.<sup>9</sup> Having the CHSRA regulations proposed in this bill merely “consider reimbursement” seems misaligned with existing statutory requirements.

- 6) *Need for Amendments.* Given these various considerations and concerns, the committee recommends the following set of amendments to rebalance the relationship between CHSRA and the utilities, while affirming the need to both deliver the HSR project on time and to provide utility service safely and reliably:
- a. Retain CHSRA regulatory authority and framework for local agencies – to be defined as cities, counties, city and county, or special districts. Clarify that this framework is specific to activities of local agencies, such as permitting and issuance of encroachments.
  - b. Recast CHSRA’s regulatory development for utilities as an internal rulemaking to govern CHSRA’s engagement and coordination with utilities, not regulations directing the terms and conditions of the utilities’ actions. Clarify that this framework is specific to utility operations, such as infrastructure relocations.

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<sup>8</sup> Pg. 16-17, *OIG-HSR Pre-Construction report; Ibid.*

<sup>9</sup> PUC §§ 185501-185502

- c. Have both the local agency regulations and CHSRA's internal rules for utility engagement be complete by July 1, 2026, rather than January 1st.
- d. Require CHSRA's internal rules that govern estimation of utility costs to occur in coordination with the utilities, and specify that the cost estimates must recognize existing statutory requirements in PUC §§ 185501 and 185502.
- e. Require CHSRA's to provide options for utility review processes and binding dispute resolutions, including recommendations on independent administrators of the resolution process. Require CHSRA and utilities to agree to a preferred option from the list provided by CHSRA.
- f. Additionally require CHSRA to identify, in coordination with the CPUC, existing processes within the CPUC that can provide a similar venue for dispute resolution between CHSRA and the CPUC jurisdictional utilities, rather than exempting those utilities from the resolution process outright.
- g. Require CHSRA and the utilities to agree to preferred outcomes by December 31, 2026, on timelines for utility design review, and definitions of "betterment" and "cooperative agreements." For local agencies these definitions would remain as part of the regulations issued by CHSRA.
- h. Specify that the internal rules and the regulations shall not be in effect until OIG-HSR determines that CHSRA has completed the development and implementation of a process review of third-party agreements.
- i. Require OIG-HSR to complete a review within one year of adoption of the rules to ensure their effectiveness.
- j. Make other clarifying changes, such as striking "passage and freight railroads" from the list of consulting entities in § 185524; defining "private telecommunications providers" as telephone corporations in PUC § 234 and cable operators holding a state franchise in PUC § 5830;" and adding intent language recognizing the desire to further clarify and appropriately balance the outcomes of this measure, specifically around dispute resolution processes, as discussed below.

*The committee recommends adopting all amendments (a.-j.).*

- 7) *Commitment to Continue.* While the amendments proposed by this committee seek to address the myriad concerns the current bill poses to utilities, the committee also acknowledges more work is needed to ensure an appropriate balance is struck. CHSRA and utilities need to reach agreements on project delivery and expectations. However, the structure – and balance of power – to date is not working. CHSRA lacks leverage when negotiating with third parties. As noted by OIG-HSR, "in addition to improving its own timeliness as a partner in third party negotiations, the Authority should pursue solutions that help ensure utility owners ...operate within reasonable review and approval timeframes to better facilitate the important state interest California high-speed rail represents. Changing the negotiating dynamics with utility owners is a critical long-term

need for high-speed rail.”<sup>10</sup> While this bill has only recently been significantly amended, and remains a work in progress, there is a commitment to continue to work on these issues to ensure such a change to the negotiating dynamics may be effectuated appropriately.

8) *Related Legislation.*

AB 377 (Tangipa, 2025) requires the CHSRA as part of the business plan due on or before May 1, 2026, to provide a detailed funding plan for the Merced to Bakersfield segment. Status: *In floor process* – Assembly floor.

SB 131 (Committee on Budget and Fiscal Review) among its provisions, exempts maintenance facilities, rail stations, and other related projects applicable to the CHSR project from California Environmental Quality Act (CEQA) requirements. Status: Chapter 24, Statutes of 2025.

9) *Prior Legislation.*

SB 960 (Wiener), Chapter 630, Statutes of 2024 included a section requiring Caltrans to implement a specific encroachment permit application, review, and approval process for specified complete streets facilities/projects on the departments right-of-way designed to meet existing statutory timelines for the department’s review and approval of such applications.

SB 410 (Becker) and AB 50 (Wood), required the CPUC to establish target timelines for energization – or extension of service – activities to customers for the three large Investor-Owned Utilities (IOUs). The CPUC adopted these timelines in September 2024. These timelines apply to energization for all customers – including High-Speed Rail. Status: Chapter Becker, 394, Statutes of 2023 and Wood, Chapter 317, Statutes of 2023, respectively.

SB 198 (Committee on Budget and Fiscal Review) established the OIG-HSR in addition to placing other requirements on HSRA and limiting construction of the project to the Merced to Bakersfield segment, until it is completed. Status: Chapter 71, Statutes of 2022.

10) *Triple Referral.* This bill is triple referred. Prior to being heard in this committee, this bill will be heard in the Assembly Committees on Transportation and Local Government on Monday, July 14, and Wednesday, July 16, respectively.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

350 Bay Area Action  
California Yimby  
Streets for All

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<sup>10</sup> Pg. 23, *OIG-HSR Pre-Construction report; Ibid.*

## Opposition

Association of California Water Agencies (ACWA)  
Burbank/burbank Redevelopment Agency; City of  
Calbroadband  
California Association of Sanitation Agencies  
California Municipal Utilities Association  
California Municipal Utilities Association (CMUA)  
California Special Districts Association  
California State Association of Counties (CSAC)  
City of Arcata  
City of Artesia, California  
City of Chino  
City of Colton  
City of Cypress  
City of East Palo Alto  
City of Grand Terrace  
City of LA Palma  
City of Laguna Niguel  
City of Lakewood CA  
City of Los Alamitos  
City of Manteca  
City of Menifee  
City of Merced  
City of Moreno Valley  
City of Morgan Hill  
City of Novato  
City of Palm Desert  
City of Paramount  
City of Rancho Cucamonga  
City of San Luis Obispo  
City of Stanton  
City of Suisun City  
City of Thousand Oaks  
City of Torrance  
City of Vernon  
Cucamonga Valley Water District  
Downey; City of  
El Segundo, City of  
Lakewood; City of  
League of California Cities  
Los Angeles County Sanitation Districts  
Los Angeles Department of Water and Power (LADWP)  
Mission Viejo; City of  
Ontario; City of  
Pacific Gas and Electric Company  
Rural County Representatives of California (RCRC)  
San Diego Gas and Electric Company  
San Rafael/marin County Council of Mayors & Council Members; City of

Sempra Energy and its Affiliates: San Diego Gas & Electric Company and Southern California Gas Company  
Southern California Edison  
Southern California Gas Company  
Town of Mammoth Lakes  
United States Telecom Association DbA Ustelecom - the Broadband Association  
Urban Counties of California (UCC)  
Wateruse California

**Oppose Unless Amended**

Tustin, City of

**Analysis Prepared by:** Laura Shybut / U. & E. / (916) 319-2083