San Francisco Public Utilities Commission

Rules and Regulations Governing the Procedures for Submitting Written Objections to Proposed Water or Sewer Fees or Charges

Daniel Lurie, Mayor

COMMISSIONERS

Joshua Arce, President

Stephen E. Leveroni, Vice President

Avni Jamdar

Kate H. Stacy

Meghan Thurlow

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Rule 1. General Provisions

1.1 Authority

The San Francisco Public Utilities Commission (SFPUC), as the water and sewer utility provider for the City and County of San Francisco, must set water and sewer utility rates in conformance with San Francisco Charter 8B and the California Constitution Article XIII D. Under California Government Code Section 53759.1, the SFPUC may adopt an administrative exhaustion procedure for Ratepayers to object to proposed new, increased, or extended fees or charges.

1.2 Purpose

The purpose of these Rules and Regulations is to implement the authority under Government Code Section 53759.1 and to provide procedural guidance to Ratepayers who seek to object to proposed changes to fees or charges.

1.3 Effect of these Rules and Regulations

No claim, cause of action, suit for damages, suit for injunctive relief, petition for writ of mandamus, or administrative or judicial proceeding shall be brought against San Francisco regarding a challenge to a proposed Fee unless a Ratepayer first exhausts the Ratepayer's administrative remedies by fully complying with the Written Objection procedure specified in these Rules. The failure of a Ratepayer to sufficiently raise a legal issue regarding alleged noncompliance with California Constitution Article XIII D of the California Constitution, in the time and in the manner prescribed in these Rules shall bar the Ratepayer from alleging such noncompliance in another venue or at a later date.

Rule 2. Definitions

Unless otherwise expressly stated and defined in a separate rule, the following terms in bold font shall, for the purpose of these Rules, have the meaning indicated following the colon (:)

Commission: The Public Utilities Commission, as established under San Francisco Charter Articles 4 and 8B, that serves as the decision-making body of the SFPUC.

Fee: A fee or charge for water or sewer service, as those terms are used in Article XIII D, sections 2 and 6 of the California Constitution. As used in these Rules, Fee may refer to either a single fee or charge or multiple fees and charges depending on the rate action and the context.

Protest: A written opposition to a new, increased, or extended proposed Fee governed by Article XIII D, section 6 of the California Constitution. A Protest may, but is not required to, contain substantive comments regarding a Rate Study or proposed Fee.

Ratepayer: A current owner of record of a parcel within the retail water or sewer jurisdiction of the SFPUC, a current water or sewer service customer who is not the property owner, or any other person or entity a court of competent jurisdiction has determined has legal standing to sue San Francisco alleging noncompliance with Article XIII D, section 6 of the California Constitution.

Rate Study: The report prepared by, or on behalf of, SFPUC that describes the basis upon which SFPUC calculated a Fee or proposed Fee.

Response: SFPUC's written response to a Written Objection, as that term is used in Section 53759.1, subdivision (c)(5) of the California Government Code.

Rules: These Rules and Regulations Governing the Procedures for Submitting Written Objections to Proposed Water or Sewer Fees or Charges.

San Francisco: The City and County of San Francisco, including its departments, legislative bodies, officers, employees, and designees.

SFPUC: The San Francisco Public Utilities Commission.

Written Objection: A written submission by a Ratepayer to the SFPUC, that fully complies with these Rules. Any written submission or any portion of a written submission that does not fully comply with these Rules shall not be considered a Written Objection.

Rule 3. Written Objections

In considering a proposed new, increased, or extended Fee, the Commission will consider only those Written Objections that meet all of the following requirements:

3.1. Ratepayer. Only a Ratepayer may submit a Written Objection.

3.2. Time for Submission.

SFPUC must receive the Written Objection no later than 4:30 p.m. Pacific Time on the 45th day after the date SFPUC mailed the notice described in Rule 4.2. The General Manger has the sole discretion to extend the deadline to submit a Written Objection. A Written Objection shall be untimely if it is postmarked but not received before the close of the Written Objection period.

3.3 Location of Submission. Each Written Objection must be submitted to the attention of the SFPUC Director of Commission Affairs either in person at the SFPUC headquarters or by mail using the address and location information provided in the notice described in Rule 4.2.

3.4 Title and Contents of Submission.

a) To qualify as a Written Objection must contain all of the following information:
   1. The submission must state that it is a Written Objection.
   2. The submission must identify the name and the property location (customer account number, street address, or assessor's parcel number) of the Ratepayer submitting the Written Objection. For purposes of this Rule 3, a Post Office Box number or other non-physical address shall not constitute a property location.
   3. The submission must contain one or more substantive allegations (i.e., grounds) that, if found to be true, may constitute noncompliance with Article XIII D of the California Constitution. Each allegation in the Written Objection must further specify the Fee change (i.e., the new, increased, or extended Fee) and corresponding information in the Rate Study that forms the basis for the allegation, including the manner in which the Ratepayer believes that information supports the conclusion of the allegation, as well as how the Ratepayer believes SFPUC could revise the information in the Rate Study or the proposed Fee to comply with Article XIII D of the California Constitution.
b) Any comment that generically alleges noncompliance with Article XIII D of the California Constitution without reference to any Fee change or relevant factual information contained in the Rate Study shall not constitute a Written Objection.
c) Each Ratepayer may only submit one Written Objection.

Rule 4. SFPUC Procedures

The SFPUC will follow the procedure outlined below to allow for receipt and consideration of any Written Objection.

4.1. Availability of Fee and Rate Study Information.

At least 45 days before the deadline for a Ratepayer to submit a Written Objection, SFPUC will:

a) Make its proposed Fee available to the public; and
b) Post on its internet website the Rate Study that describes the basis for the proposed Fee.
c) SFPUC will provide the Rate Study described in subdivision (b) of this Rule 4.1 to a Ratepayer upon request.

4.2 Contents of Notice. Each notice SFPUC sends pursuant to Article XIII D, section 6, subdivision (a) of the California Constitution will prominently display the following information:

a) That all Written Objections must be submitted within 45 days after the mailing of the notice, and that a failure to timely submit a Written Objection bars any right to challenge the Fee referenced in the notice through a legal proceeding;
b) All substantive and procedural requirements for submitting a Written Objection; and
c) A link to the page on SFPUC's internet website where the Rate Study that describes the basis for the proposed Fee is located.

4.3 Responses to Written Objections.

a) Before the close of the Protest hearing or ballot tabulation hearing required under Article XIII D, section 6 of the California Constitution, SFPUC will consider and respond in writing to each Written Objection that was timely submitted in compliance with Rule 3.
b) In its response to each Written Objection, SFPUC will:
    1. Explain whether each allegation in the Written Objection will result in an amendment to the proposed Fee; and

    2. Explain the substantive basis for retaining or altering the proposed Fee in response to the Written Objection.

4.4 Consideration of Written Objections and Responses.

a) Before or during a Protest hearing or ballot tabulation hearing required under Article XIII D, section 6 of the California Constitution, SFPUC will present to the Commission for its consideration all timely submitted Written Objections and SFPUC responses.

b) After considering all timely submitted Written Objections and SFPUC responses, the Commission may determine any of the following:
   1. Whether the Written Objections and SFPUC's responses warrant clarifications to the proposed Fee;
   2. Whether to adjust the proposed Fee;
   3. Whether further review is required before making a determination on whether clarification or reduction is needed; or
   4. Whether to proceed with the Protest hearing or ballot tabulation hearing required under Article XIII D, section 6 of the California Constitution.