

Full Service Center 827 7th Street, Room 102 Sacramento, CA 95814 M-F 8:30am - 4:30pm	East Area Service Center 5229 Hazel Avenue, Suite B Fair Oaks, CA 95628 M-Tu. 9:00am - 4:00pm
Bradshaw Center 9700 Goethe Road, Suite A Sacramento, CA 95827 M-F 8:30am - 4:30pm	North Area Service Center 3331 Peacekeeper Wy., Suite 100 McClellan, CA 95652 W-Th. 9:00am - 4:00pm

Utility Equipment Structures and Buildings

Background:

The County has limited jurisdiction to require building permits and conditional use permits for construction of facilities used for production, generation, storage, or transmission of utilities.

The Public Utilities Commission (PUC) regulates public utilities. The Public Utilities Code provides that the PUC may establish standards of construction and equipment; may grant certificates of public convenience and necessity; or make decisions, orders, and rules pertaining to public utilities. If such orders conflict with any County ordinance, the PUC order or rule prevails. Therefore, PUC regulation is paramount.

California Government Code states that, "Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, waste water, or electrical energy by a local agency."

A "local agency" is defined by California Government Code as an agency of the state for the local performance of governmental or proprietary function within limited boundaries. SMUD is an example of a local agency and PG&E is an example of a privately owned public utility.

A local agency is exempt from county building and zoning ordinances that regulate the location or construction of facilities directly and immediately used for the production, generation, storage, or transmission of water, waste water, or electrical energy.

Only the essential components of the utility and transmission system of a local agency are immune from County ordinances. A facility used for the storage of materials and equipment necessary for the maintenance or repair of the utility and transmission system is **not** exempt from County regulation. In addition, a privately owned public utility is only exempt from County regulations if the CPUC issued orders that conflict with County ordinances.

Policy:

A. County Regulation of a Public Utility.

In order to determine whether the County may regulate a public utility by imposing building and zoning code requirements, the following analysis should be conducted:

Is the Utility Privately Owned or is it a Public Agency?

1. Local Agency:

- a. The County may not regulate the utility if it is a local agency within the meaning of California Government Code and the proposed facilities are used strictly for the production, generation, storage, or transmission of water, wastewater, or electrical energy.

- b. If the proposed facilities will not be used strictly for the production, generation, storage, or transmission of water, wastewater, or electrical energy, the local agency may be subject to County regulation.

2. Privately Owned Public Utilities:

- a. If the PUC issued no orders or certificates of public convenience in relation to the particular project, the utility is subject to County regulation, including building and zoning code requirements. **However**, Building Permits and Inspection (BPI) will not regulate facilities that directly deal with the transmission of utilities as they are already regulated by other agencies.
- b. If there are PUC orders that relate to the particular project, and if the order conflicts with county building or zoning requirements or if the order specifically preempts the County from regulating the utility, the utility is exempt from County regulation.

B. Security Fences Protecting Electrical Transmission Facilities.

SMUD security fences protecting electrical transmission facilities will not be subject to permit requirements.

Procedure:

A customer requesting an exemption of any entitlement per Government Code must provide the following to confirm his/her exempt status:

Documentation indicating whether they are a local agency or a privately owned public utility as defined in this Policy.

If a Local Agency:

1. The applicant is to submit proof that the proposed facilities are used strictly for the production, generation, storage, or transportation of water, wastewater, or electrical energy.
2. If the project proposal **will not** be used strictly for the production, generation, storage, or transmission of water or electrical energy, then it is subject to building and Zoning Code requirements.
3. County staff is to refer the customer to the Department of Planning and Community Development for zoning requirements.
4. If there is a question of interpretation of any of the documents submitted, County staff should refer the documents to County Counsel for an opinion.

If a Privately Owned Public Utility:

1. The applicant is to provide the PUC order or certificate of public convenience for the project.
2. If there is no PUC order or certificate of public convenience for the project, then the utility is subject to County regulation.
3. If the PUC order or certificate of public convenience for the project **does not conflict** with building or zoning requirements, the customer must comply with the County building or zoning requirements.
4. If the PUC order or certificate of public convenience for the project **does conflict** with building or zoning requirements, the PUC order prevails; and the utility is exempt from local requirements in conflict with the PUC order or certificate of public convenience.
5. County staff is to refer the customer to the Department of Planning and Community Development for zoning requirements.
6. If there is a question of interpretation of any of the documents submitted, County staff should refer the documents to County Counsel for an opinion.

Please inquire with County Counsel if a legal interpretation or opinion is required in order to determine whether a particular utility is subject to County regulation. In addition, an applicant should always be referred to the Planning and Community Development Department for questions relating to the types of zoning permits required for the proposed use. For example, water storage tanks may be subject to conditional use permit requirements as outlined in the County Zoning Code.

If it is determined that the County may regulate the utility, some of the types of permits that would be required for utility equipment structures and buildings are summarized below:

1. Towers and Above Ground Tanks.

A commercial building permit is required for the installation or construction of all towers and above ground tanks. Section H (“The Nature of Work”) of the application for permit (AP-02 & AP-09), shall indicate miscellaneous structure with P.C., Suffix J. If an electrical connection is required, it shall be included with this permit. Clearance is required from all County departments.

A partial permit may be requested for underground utility work and the concrete pad for the electrical equipment by processing and submitting an additional application and plan set. A Hold Harmless Agreement (CO-38) or a Partial Permit Declaration (AP-19) must be signed by the owner and contractor, and then approved by BID prior to issuing a partial permit.

2. Underground Equipment Vaults.

A commercial miscellaneous permit is required for the installation of all underground equipment vaults requiring an electrical connection. Section H (“The Nature of Work”) of the application for permit (AP-02 & AP-09), shall indicate miscellaneous, PM&E of Suffix 1.

3. Manufactured Equipment Buildings (not HCD approved).

A commercial building permit is required for the installation of all such equipment buildings located on grade or on top of other structures or buildings. Section H (“The Nature of Work”) of the application for permit (AP-02 & AP-09), shall indicate new construction, Suffix X, or Addition, Suffix A. If electrical, plumbing, or mechanical work is required, it shall be included with this permit. Clearance is required from all County departments and the local fire district.

4. Manufactured Equipment Buildings (with HCD approval).

A commercial building permit (commercial coach) is required for the installation of all such equipment buildings located on grade or on top of other structures or buildings. Section H (“The Nature of Work”) of the application for permit (AP-02 & AP-09), shall indicate new construction, Suffix X, or Addition, Suffix A. If electrical, plumbing, or mechanical work is required, it shall be included with this permit. Clearance is required from all County departments and the local fire district.

5. Buildings Housing Utility Equipment.

A commercial building permit is required for the construction or alteration of all such buildings. Section H (“The Nature of Work”) of the application for permit (AP-02 & AP-09), shall indicate new construction, Suffix X; or Addition, Suffix A; or Alteration, Suffix B. If electrical, plumbing, or mechanical work is required, it shall be included with this permit. Clearance is required from all County departments and the local fire district.