
California Underground Facilities Safe Excavation Board
("Dig Safe Board")

July 13-14, 2020

Agenda Item No. 6 (Information Item) – Staff Report

Discussion of Dig Safe Board Regulatory Fee Implementation

PRESENTER

Tom Finn, Operations Manager

SUMMARY

At the June 8, 2020 Board meeting, staff presented a report providing an update on collection of the Board's regulatory fee, which included a recommendation that the Board consider directing staff to draft regulations for the Board to issue its own invoices to collect the fee. In the discussion of this report, the Board directed staff to prepare two proposals for regulatory changes: one where the Board would issue its own invoices to collect the fee, and one where the Board would amend the regulation for the one-call centers to continue collecting the fee on the Board's behalf. Staff has prepared this report to serve as an outline for discussion among the Board which will assist staff in preparing the draft regulations for presentation and consideration at a future Board meeting.

STRATEGIC PLAN

2020 Strategic Objective: Continue Building a Foundation for Board Operations
Strategic Activity: Review of the Board's Fee Regulation

BACKGROUND

The Dig Safe Act of 2016 (SB 661, Chapter 809, Statutes of 2016)¹ created the Board and authorized it to obtain funding for its operational expenses from fees charged to members of California's two regional notification centers (Gov't Code § 4216.16(b)²). It required payments to be apportioned "...in a manner consistent with formulas used by the regional notification centers."

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB661

² https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4216.16.&lawCode=GOV

Source of Operating Revenue

The Board was initially funded in the state's Budget Act of 2017 by a loan of \$7,406,000 from a state telecommunications fund, to be repaid on July 1, 2019. In the Budget Act of 2018 the Legislature, recognizing the need to extend the loan repayment period to ease the burden on the one-call center members, granted the Board's request to extend the repayment period until July 1, 2021. Therefore, the Legislature expected the Board to begin collecting a fee to support its operations in advance of the 2019-20 fiscal year and to have collected enough by July 1, 2021 to repay its two-year start-up loan in its entirety. As the Board previously noted in its October 18, 2019 Legislative Review Report "Reduction or delay in revenue may impact the ability of the Board to repay the loan by the established deadline."³

Fee Regulation

To implement this statute, the Board on August 20, 2018 approved a regulation to require the one-call centers to assess the fee through their standard invoicing processes and collect it on the Board's behalf (19 CCR § 4010)⁴. This model was chosen as it was seen as being in the best interest of members as they were already accustomed to being invoiced by and paying the one-call centers. The regulation went into effect on January 1, 2019, and the one-call centers began issuing invoices soon thereafter.

Implementation

In staff reports presented to the Board on April 15, 2019⁵ and June 8, 2020⁶ staff outlined numerous concerns raised by members of the one-call centers regarding the invoicing process for the Board's fee. The June 8, 2020 staff report included a recommendation from staff that the Board direct staff to prepare draft regulation language where the Board would issue its own fee invoices. In the discussion that ensued, the Board directed staff to also consider amending the regulation for the one call centers to continue collecting the fee including potentially requiring the fee to be a line item on existing one-call center invoices. Staff has prepared this report to serve as an outline for discussion among the Board which will assist staff in preparing draft regulations for presentation and consideration at a future Board meeting.

DISCUSSION

Collection of Fees by Regulators

As staff discussed in the June 8, 2020 staff report, issuing fees on behalf of members is a common practice of regulators. This is the process utilized by the Federal Communications Commission and the California Public Utilities Commission. In both of these models, one or more fees are paid by utilities who pass the fees on to their customers.

³ October 18, 2019, *Legislative Review Report*, <https://digsafe.fire.ca.gov/media/2272/dig-safe-board-2019-legislative-report.pdf>

⁴ 19 CCR § 4010(b)(2), https://osfm.fire.ca.gov/media/4202/text-et-digfees_endorsed.pdf

⁵ April 15, 2019, Agenda Item No. 3, *Discussion on Fee Implementation*, <https://digsafe.fire.ca.gov/media/2052/item-3-fee-implementation.pdf>

⁶ June 8, 2020, Agenda Item No. 4, *Update on Fee Implementation and Collection*, <https://digsafe.fire.ca.gov/media/2386/item-4-fee-implementation-accessible.pdf>

Working with the One-Call Centers

In public comment at the June 8, 2020 meeting, both USA North 811 and DigAlert stated some of the concerns they had regarding the current billing process. Following the meeting, staff held discussions with the directors of each of the one-call centers to better understand those concerns and partner on solutions to the billing process that would improve the experience for members.

Staff have developed the following solutions it could implement to assist the one call centers:

- Moving to a July-June billing cycle to allow more time to process/calculate billable tickets which are determined using the ticket totals from previous calendar year
- Conducting additional outreach to members of the one-call centers regarding the fee
- Creating a dedicated email inbox for fee questions
- Assisting one-call center staff with creation of the invoices

Plans to Improve Collections

Any plan to improve collections will have benefits and potential consequences. Tables 2 and 3 on the following pages outline the various pros and cons of the Board Issuing its own invoices, and the other option of the one-call centers continuing to issue invoices on the Board's behalf. These tables include only those impacts that one-call centers have raised in previous Dig Safe Board meetings, there may be additional impacts on one-call centers that are not addressed in this report. The Board may wish to engage the one-call centers in a discussion of their impacts.

Table 1 below (continuing on next page) outlines various pros and cons associated with the Board issuing its own invoices.

Table 1: Board Issuing its Own Invoices		
Idea	Pros	Cons
Board Resources	Workload is finite and known. Staff can plan to absorb workload based on other operational needs.	Resources would need to be redirected from existing policy tasks the Board had planned for action. Requests for additional resources are subject to budgetary approval, are unlikely, and can take more than one year for development and approval.
One-Call Center Resources	Would only require the one-call centers to continue providing the ticket data necessary for Board staff to calculate members' fees. Would reduce time currently spent handling payment processing and accounting.	Could potentially receive inquiries as members adjust to another change to the billing process.
Information Control	All payment information would be centralized with a single entity.	Board would need to replicate member billing and contact information data currently held by one-call centers.

Member's Perspective	Would have a single point of contact with all billing information readily available to answer questions.	Many members would need to add an additional vendor to their payment systems. Members who pay with credit cards would need to use another method, as the Department of Forestry and Fire Protection does not currently accept credit cards. Members would have already been through at least 3 yearly billing cycles of the old process before any changes take place. Adds an additional invoice requiring additional processing.
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Table 2 below outlines various pros and cons associated with the one-call centers continuing to collect the Board's fee.

Table 2: One-Call Centers Invoicing on Board's Behalf		
Idea	Pros	Cons
Board Resources	If managed correctly, time spent by Board staff would be minimal.	Uncertainty in how one-call centers will manage the implementation means that staff may need to be redirected as issues arise to address members' needs.
One-Call Center Resources	Streamlining the process could resolve some of the inquiries from members which the one-call centers have needed to respond to.	One-call centers have in previous Dig Safe Board meetings explained the resources they spend on the current process as well as the additional resources that would be required to implement some of the proposed improvements such as mailing all invoices, adding the regulatory fee as a line item on their current invoices, and the costs of appropriately accounting for the separate receivables.
Information Control		Not centralized. Multiple parties still involved.
Member's Perspective	Continue to have multiple billing contacts at separate entities that may each have the most current information. Members' will not need to add another vendor to their payment/accounting systems. Members will have had more than three billing cycles of the same process.	

Measuring Success

Success in improving the fee process will largely be measured by two factors: questions received from members regarding the fee, and amount of delinquent invoices outstanding.

Questions to Guide Board Discussion

As the Board discusses how to best proceed with the fee implementation process, staff recommends that the impact on members be the driving consideration behind any decision. To guide the Board's discussion of any potential changes to the regulations, staff have developed the following questions:

1. What should the roles of the Board and the one-call centers be in the invoice process?
2. If the one-call centers will continue to issue invoices for the Board's regulatory fee:
 - a. Should the invoice be a line item on existing one-call center invoices or is a separate invoice sent at the same time, in the same envelope and/or email acceptable to the Board?
 - b. If the invoices will be separate:
 - i. Would the Board allow the one-call centers to utilize the Board's logo and/or letterhead? If so, what would be the Board's involvement in reviewing and approving invoices before the one-call centers send them out.
 - c. Delinquent fees:
 - i. Should the one-call centers also handle collection of any delinquent fees?
 - ii. Should Board staff or the one-call center handle billing of delinquent invoices?
3. In what ways would the Board issuing its own invoices be a departure from standard billing practices of other regulators including enforcement bodies of call before you dig laws in other states?

CONCLUSION

The Board chose to utilize the one-call centers as billing entities for its regulatory fee as this is a model commonly used by other regulators, including enforcement bodies of one-call centers in many other states. This billing model was also chosen as it was envisioned as having the least impact to members of the one-call centers as they would be paying an entity they already had an established relationship with and not create an additional invoice requiring additional processing by the members. While the initial implementation process has caused confusion for some members, the disruption any further changes to the billing entity or process would cause must be balanced against the potential benefits those same changes would bring. Given that any regulatory changes are unlikely to be in place before January 2022, it may be in the best interests of one-call center members for the Board to continue making incremental improvements to the current process as initial growing pains may stabilize by the time the new regulations are in effect and any large-scale changes at that time could cause more harm than good.

RECOMMENDATION

The Board should utilize the questions staff developed above to drive discussion of the roles Board staff and the one-call centers should have in billing the process and consider the impacts any changes would ultimately have on members of the one-call centers. Based on the conclusions the Board arrives at, staff will prepare regulatory language for presentation at a future Board meeting.

ATTACHMENTS

None