

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

**34-2022-80004019-CU-WM-GDS: Asian American Liberation Network, a California non-profit public benefit association vs. Sacramento Municipal Utility District
05/22/2026 Hearing on Motion for Attorney Fees Petitioner in Department 16B**

Tentative Ruling

The following shall constitute the Court's tentative ruling on Petitioner's motion for attorneys' fees, which is scheduled to be heard by the Court on Friday, Friday, May 22, 2026, at 11:00 a.m. in Department 16B. The tentative ruling shall become the final ruling of the Court unless a party wishing to be heard so advises the clerk of this Department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the clerk that such party has notified the other side of its intention to appear.

In the event that a hearing is requested, oral argument shall be limited to no more than 20 minutes per side.

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government Code §68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crtp-13.Pdf>

A Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) is required to be signed by each party, the private court reporter, and the Judge prior to the hearing, if not using a reporter from the Court's Approved Official Reporter Pro Tempore list, Once the form is signed it must be filed with the clerk.

If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211) and it must be filed with the clerk at least 10 days prior to the hearing or at the time the proceeding is scheduled if less than 10 days away. Once approved, the clerk will forward the form to the Court Reporter's Office and an official reporter will be provided.

SMUD Respondents are **admonished** that their opposition is 21 pages long, in direct violation of California Rules of Court, rule 3.1113, subdivision (d), limiting responding memorandums to 15 pages. SMUD did not seek leave to file a longer opposition pursuant to subdivision (e), and thus the Court has not considered any argument contained in pages 16-21 of the opposition.

I. Factual and Procedural Background

By way of this litigation, Petitioners Alfonso Nguyen, Khurshid Khoja, and Asian-

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American Liberation Network sought a writ of mandate on the basis that the City's zip code-based requests and SMUD's subsequent disclosure of customer data violate Article I, Section 13, of the California Constitution, and Public Utilities Code section 8381. Petitioners requested that the Court issue a writ of mandate commanding the City to cease requesting the subject information "in the absence of individualized reasonable suspicion of wrongdoing or a court order," and commanding SMUD to cease sharing customer information with law enforcement "in the absence of individualized reasonable suspicion of wrongdoing or a court order."^[1]

After a hearing on the merits, the Court granted the petition for writ of mandate with respect to SMUD and Paul Lau only, and in favor of Petitioners Nguyen and Khoja. The Court determined that Petitioner Asian-American Liberation Network lacked standing. The Court specifically found that "SMUD and the City have developed a relationship beyond that of utility provider and law enforcement, such that SMUD has knowledge that the City's zip code-based requests are not being made pursuant to an ongoing investigation, and SMUD knowingly discloses its customers' electrical consumption data in violation of its obligations of confidentiality imposed by Public Utilities Code section 8381." The Court found that Petitioners failed to establish that "SMUD's production to the City of a number representing the aggregate amount of energy consumed by a particular customer in the prior month is an unconstitutional search in violation of Article I, Section 13."

Petitioners now seek attorneys' fees of \$2,088,967.50, representing \$1,382,745 in fees, a multiplier of 1.5, and \$14,850 in fees associated with the present motion.

II. Standard

Petitioners argue they are entitled to attorneys' fees pursuant to Code of Civil Procedure section 1021.5. Section 1021.5 provides,

Upon motion, a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any. With respect to actions involving public entities, this section applies to allowances against, but not in favor of, public entities, and no claim shall be required to be filed therefor, unless one or more successful parties and one or more opposing parties are public entities, in which case no claim shall be required to be filed therefor under Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code.

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This is the codification of the “private attorney general doctrine.” This doctrine, “rests upon the recognition that privately initiated lawsuits are often essential to the effectuation of the fundamental public policies embodied in constitutional or statutory provisions, and that, without some mechanism authorizing the award of attorney fees, private actions to enforce such important public policies will as a practical matter frequently be infeasible.” (*Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 933.) To obtain fees under this code section, the prevailing party must show that the litigation: (1) served to vindicate an important public right; (2) conferred a significant benefit on the general public or a large class of persons; and (3) was necessary and imposed a financial burden on the fee requester which was out of proportion to his or her individual stake in the matter. (*Families Unafraid to Uphold Rural El Dorado Cty. v. Board of Supervisors* (2000) 79 Cal.App.4th 505, 511)(disapproved on another ground in *Conservatorship of Whitley* (2010) 50 Cal.4th 1206.) The trial court is to “assess the litigation realistically and determine from a practical perspective whether these criteria have been met.” (*Ibid.*)

III. Discussion

A. Evidentiary objections

SMUD Respondents raise numerous objections to the declarations and the evidence provided in support of the present motion. These objections are all **OVERRULED**.

B. Successful party

SMUD Respondents argue Petitioners are not successful parties for purposes of section 1021.5 because they did not prevail on any arguments regarding race discrimination. SMUD Respondents acknowledge that race discrimination is not an issue that was presented in the briefing on the merits, however, they argue that Petitioners’ final arguments and ultimate success was a “narrow, technical win on a fragment of a single cause of action.” (Oppo., p. 7.)

The Court finds Petitioners are successful parties for purposes of section 1021.5. Petitioners argued, and the Court agreed, that SMUD Respondents’ practice of providing electrical consumption data to the City in response to zip-code-based requests in the absence of an ongoing investigation was a violation of SMUD Respondents’ statutory obligations. The Court entered judgment in Petitioners’ favor as to this issue and ordered SMUD Respondents to cease engaging in this practice. While Petitioners may have initially pursued claims of racial discrimination, these claims were not presented to the Court at the hearing on the merits (nor were they subject to a successful demurrer or motion to strike). Petitioners obtained the relief sought against SMUD Respondents, which was to prevent further disclosures of electrical consumption data in response to zip-code-based requests in the absence of an ongoing

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investigation. While Petitioners were not successful in proving Constitutional violations, the degree of success does not prevent them from being a prevailing party, rather it is a “key factor in determining the reasonable amount of attorney fees to be awarded...” (*Save Our Uniquely Rural Community Environment (SOURCE)* (2015) 235 Cal. App. 4th 1179, 1185.)

C. Important public right, significant benefit

Petitioners argue that they enforced “the public’s right to privacy and confidentiality” and addressed “harms caused by the surveillance program,” including “profiling customers based in part on ethnicity or race to provide tips to law enforcement...and police harassment, home searches, and home raids based on SMUD’s warrantless and suspicionless provision of customer information.”^[2] Petitioners argue that they protected the “privacy of the tens of thousands of SMUD customers whose data had already been disclosed at least once to law enforcement,” and that they “enforced an important legislative goal,” to protect the “confidentiality of utility data in the face of revealing technology like smart meters.” (Mtn., p. 13.)

SMUD Respondents argue that Petitioners did not vindicate an important public right as the Court “expressly declined to reach constitutional issues” and that the Court only “ruled on a narrow aspect of the Petition, interpreting a statute SMUD in good faith believed it was required to follow.”^[3] (Oppo., p. 7.)

To obtain an award under section 1021.5, a party must show that its action conferred a significant public benefit on the general public or on a large class of persons. (*Braude v. Automobile Club of Southern California* (1986) 178 Cal.App.3d 994, 1013.) A significant benefit need not be tangible or concrete but may be recognized from the effectuation of fundamental policy. (*Indio Police Command Unit Assn. v. City of Indio* (2014) 230 Cal.App.4th 521, 543.) However, the Legislature did not intend to authorize an award of attorney fees in every case involving a statutory violation. (*Robinson v. City of Chowchilla* (2011) 202 Cal.App.4th 382, 397.) Instead, “the Legislature contemplated that in adjudicating a motion for attorney fees under section 1021.5, a trial court would determine the significance of the benefit, as well as the size of the class receiving the benefit, from a realistic assessment, in light of all the pertinent circumstances, of the gains which have resulted in a particular case.” (*Ibid.*, quoting *Woodland Hills Residents Assn.*, *supra* 23 Cal.3d at pp. 939-940.)

By enacting Public Utilities Code section 8381, the Legislature intended to “prohibit [an electric utility company, whether publicly owned or private corporation] from sharing, disclosing, or otherwise making accessible to any 3rd party a customer’s electrical or gas consumption data, as defined, except as specified...” (2010 Cal SB 1476.) The author of the bill noted that smart meters raised privacy concerns, including that they could “reveal sensitive personal information about a customer’s schedule and intimate details about their lives such as their medical needs and personal habits” and thus electrical consumption data should be “kept

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securely and customers should have the ability to withhold data without disrupting their ability to manage their energy consumption.” (SB 1476 Analysis, April 6, 2010, Senate Energy, Utilities and Communications Committee.)

This litigation did not enforce the public right to privacy that the Legislature sought to protect by enacting section 8381, as the Court expressly determined that Petitioners failed to establish that:

the total sum of an individual’s prior months’ electrical consumption data could reveal when people are sleeping or eating, what types of appliances are in the home, and when those appliances are used. In addition, the Court has reviewed the data SMUD produces to the City and finds that these monthly aggregate amounts cannot possibly reveal anything about customers’ personal information or habits. To the contrary, as Petitioners themselves argue, the numbers could represent any number of activities that occurred within the prior month, such that a high number *could* indicate a marijuana grow operation, but *could* also indicate a high usage of HVAC or the charging of numerous electrical appliances.

(Ruling on Submitted Matter, November 20, 2025.)

The legislative history of section 8381 further demonstrates that the Legislature was concerned about the sale of customers’ electrical consumption data to private entities, and desired to protect the public from such disclosures in the absence of their consent. (See SB 1476 Analysis, April 6, 2010, Senate Energy, Utilities and Communications Committee [opining that customers should be able to access their own electrical consumption data without “allowing a third party to collect, retain, share or reuse their electric or gas consumption information.”]) This litigation did not implicate the sale of any customer’s electrical consumption data, to a private *or* public entity.

While Petitioners *did* establish that SMUD Respondents’ conduct violated section 8381, “the Legislature did not intend to authorize an award of attorney fees in every case involving a statutory violation.” (*Robinson, supra*, 202 Cal.App.4th at p. 397.) The Court found that SMUD and the City’s relationship went “beyond that of utility provider and law enforcement, such that SMUD has knowledge that the City’s zip code-based requests are not being made pursuant to an ongoing investigation, and SMUD knowingly discloses its customers’ electrical consumption data in violation of its obligations of confidentiality imposed by Public Utilities Code section 8381.” (Ruling on Submitted Matter, November 20, 2025.) However, the Court did not find that customers’ electrical consumption data was subject to absolute protection from such disclosures, nor did it go so far as to find that SMUD could *never* provide data in response to a zip-code-based request. Specifically, the Court anticipated “that there may be circumstances where the

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City could make a narrower request pursuant to an actual ongoing investigation of suspected illegal conduct. However, the process of making regular requests for all customer information in numerous city zip codes, in the hopes of identifying evidence that *could* possibly be evidence of illegal activity, without any report or other evidence to suggest that such a crime may have occurred, is *not* an ongoing investigation.” (*Ibid.*)

Further, SMUD received only five zip code requests in 2024, and as of November 2025, SMUD had not received any such requests in 2025. Thus, the decision in this matter enforces the statutory rights of SMUD customers only, and applies to a request procedure that the City has not utilized since 2024. Again, while SMUD’s conduct was a statutory violation, it did not implicate customers’ privacy rights because the information produced could not “possibly reveal anything about customers’ personal information or habits.” (*Contra, Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 319-320 [the general public benefitted from enforcement of fundamental constitutional rights, and the decision impacted shopping centers throughout the state.]) Petitioners argue that this litigation prevents SMUD from “profiling customers based in part on ethnicity or race to provide tips to law enforcement, and police harassment, home searches, and home raids based on SMUD’s warrantless and suspicionless provision of customer information.” The Court *did not* find that SMUD profiled customers based on ethnicity or race, and the Court made no finding that SMUD’s provision to law enforcement of a customer’s prior month’s total electrical consumption data caused “police harassment, home searches, and home raids.”

Petitioners did not establish a Constitutional violation of any privacy right in this matter, but rather established that SMUD violated Petitioners’ statutory right to nondisclosure of electrical consumption data in the absence of an ongoing investigation. While the Court does not condone SMUD’s abdication of its statutory obligations in this matter, section 1021.5 does not permit the Court to award attorneys’ fees in the absence of the enforcement of an important right affecting the public interest, and a significant benefit conferred on the general public or a large class of persons. Petitioners have the burden of establishing entitlement to section 1021.5 fees, and Petitioners have failed to carry their burden.

IV. Conclusion

Petitioners have failed to establish that this litigation resulted in the enforcement of an important right affecting the public interest and have failed to establish that a significant benefit, has been conferred on the general public or a large class of persons. The motion for attorneys’ fees is **DENIED**.

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In the event that this tentative ruling becomes the final ruling of the Court, the Court’s minute order will be effective immediately. No formal order or other notice is required. (Code Civ. Proc. § 1019.5; CRC Rule 3.1312.)

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^[1] In the First Amended Petition, Petitioners alleged that the City and SMUD specifically targeted individuals of Asian descent, and intentionally did not investigate white individuals. Petitioners further alleged that the Sacramento City Attorney's office made statements showing "bias against the Asian community." These allegations were not presented in the briefing on the merits, and no relief was sought in connection with these allegations.

^[2] The Court *did not find* that SMUD Respondents engaged in racial or ethnic profiling, nor did the Court find that SMUD's conduct resulted in home raids, police harassment, or other misconduct. The Court's determination in this matter was limited to an examination of the relationship between SMUD and the City, and the information that was being produced in response to City requests. Petitioners' continued efforts to characterize their success in this litigation as protection against unlawful raids or racial discrimination is concerning to the Court, as these arguments were not the basis of Petitioners' claims for relief nor did Petitioner establish the existence of such conduct.

^[3] SMUD Respondents *also* misstate the Court's ruling in this matter. While the Court declined to reach the Constitutional issues in its tentative ruling, the Court's "well thought-out and detailed" ruling on submitted matter, the Court analyzed, and rejected, Petitioners' claims that SMUD's conduct was a warrantless search in violation of Article I, Section 13.