



1 ELECTRONIC FRONTIER FOUNDATION  
2 SAIRA HUSSAIN (SBN 300326)  
3 AARON MACKEY (SBN 286647)  
4 ADAM SCHWARTZ (SBN 309491)  
5 815 Eddy Street  
6 San Francisco, CA 94109  
7 Telephone: (415) 436-9333  
8 Email: saira@eff.org  
9 amackey@eff.org  
10 adam@eff.org

11 VALLEJO | ANTOLIN | AGARWAL | KANTER LLP  
12 MONTY AGARWAL (SBN 191568)  
13 RACHEL CHANIN (SBN 229253)  
14 3021 Citrus Circle, Suite 220  
15 Walnut Creek, CA 94598  
16 Telephone: (925) 951-6970  
17 Email: magarwal@vaakllp.com  
18 rchanin@vaakllp.com

19 Attorneys for Petitioners/Plaintiffs

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
21 COUNTY OF SACRAMENTO

22 ASIAN AMERICAN LIBERATION  
23 NETWORK, a California non-profit public  
24 benefit association; KHURSHID KHOJA,  
25 an individual,

26 Petitioners/Plaintiffs,

27 v.

28 SACRAMENTO MUNICIPAL UTILITY  
DISTRICT; PAUL LAU, in his official  
capacity as the Chief Executive Officer of  
the Sacramento Municipal Utility District;  
CITY OF SACRAMENTO; KATHERINE  
LESTER, in her official capacity as Chief of  
Police of the City of Sacramento Police  
Department,

Respondents/Defendants.

Case No.: 34-2022-80004019

**VERIFIED PETITION FOR  
WRIT OF MANDATE AND  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

**Filed by  
Fax**

## INTRODUCTION

1  
2           1.       The Sacramento Municipal Utilities District (“SMUD”) is searching  
3 entire zip codes’ worth of peoples’ private data and disclosing it, in bulk, to law  
4 enforcement without a court order and in the absence of an ongoing investigation.  
5 SMUD’s bulk disclosure of customer utility data turns its entire customer base into  
6 potential leads for police to chase.

7           2.       SMUD’s ongoing dragnet of its customers’ utility usage and  
8 subsequent disclosure eviscerates their reasonable expectations of privacy and  
9 violates California law. SMUD’s disclosures also disproportionately harms Asian  
10 customers because SMUD’s lists are used to target Asians in particular.

11           3.       Electricity usage data has always provided a view into what occurs  
12 within a home. But with the adoption of smart utility meters, the data provides a  
13 picture that is clearer and more detailed than was possible before. Today, smart  
14 meters provide usage information in 15-minute or even smaller increments. The  
15 granular information is beamed wirelessly to the utility on average six times a day  
16 and can be stored in the utility’s databases for years. A utility company’s analyst  
17 who has never been to the home can sit at a far-away terminal and glean inordinate  
18 amounts of information about what is going on inside the house. As the sensitive  
19 usage data accumulates over time, fuller pictures can be inferred about private  
20 daily routines, such as what devices are being used, when they are in use, and how  
21 this changes over time.

22           4.       Because of the power of this sensitive data and the potential for abuse,  
23 laws strictly govern when utilities can share information with law enforcement. For  
24 the 60% to 70% of Californians who get service from private utilities like PG&E and  
25 Southern California Edison, the California Public Utilities Commission’s (“CPUC”)  
26 rules allow disclosure to law enforcement only on a search warrant or a judicially  
27 approved subpoena.  
28

1           5.       Privacy laws evolved differently for public utilities because they are  
2 not subject to CPUC jurisdiction. Public utilities generally “shall not share,  
3 disclose, or otherwise make accessible to any third party a customer’s electrical  
4 consumption data ...” Public Utilities Code § 8381(b)(1). However, there is an  
5 exception for sharing “as required under federal or state law.” *Id.* at § 8381(f)(3).

6           6.       Further, the California Public Records Act (“CPRA”) prevents public  
7 utilities from disclosing consumer data, save under narrow circumstances. Gov’t  
8 Code § 6254.16. One of these instances is “[u]pon court order or the request of a law  
9 enforcement agency relative to an ongoing investigation.” Gov’t Code § 6254.16(c).  
10 Even when applicable, nothing in the narrow exception requires SMUD to turn over  
11 private social security, driver’s license, and telephone numbers, which SMUD  
12 liberally discloses.

13           7.       In recent years, SMUD has given a slew of protected customer data to  
14 the Sacramento Police Department (“Sacramento Police”). Sacramento Police asked  
15 SMUD to provide this information on an ongoing basis. Sacramento uses the data  
16 SMUD hands over to police as part of an abusive penalty scheme. In 2017,  
17 Sacramento Police started issuing large penalties to owners of properties where  
18 cannabis is found under a new city ordinance. In just two years, they levied nearly  
19 \$100 million. These actions have been endorsed by city leaders. At one public  
20 meeting, a City Councilperson bluntly said, “I’d love to see how much money we  
21 confiscate ...” At another, Sacramento’s Mayor asked that “collection of these  
22 resources be a high priority” because “we’re going to have a budget this year that is  
23 going to be lean.”

24           8.       Sacramento Police assessed 86% of the penalties, in the two years  
25 before September 1, 2019,<sup>1</sup> against owners whose names are discernably Asian.  
26 This skew did not happen accidentally. In generating police leads, a SMUD analyst

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28 <sup>1</sup> Sacramento was sued on September 12, 2019 for, among other things, an Equal Protection violation in a different matter.

1 excluded homes in a predominately white neighborhood. And one police architect of  
2 Sacramento’s program removed non-Asian names on a SMUD list and sent only the  
3 Asian names onward for further attention. At one appeal hearing, a city prosecutor  
4 demanded of an Asian property manager if he knew there was a “problem with  
5 Asian people and grow houses.” In another, a second prosecutor insinuated that the  
6 Asian owner was involved with “organized crime,” an accusation later rejected as  
7 baseless by a superior court judge.

8 9. SMUD is supposed to prevent the disclosure of electricity usage and  
9 customer data because of its potential for abuse. SMUD’s policies say that “privacy  
10 is fundamental,” that it “strictly enforce[s] privacy safeguards,” and that it discloses  
11 to law enforcement only as allowed by law. SMUD’s practice, however, is to search  
12 its extensive trove of customer data and to turn over protected information, in bulk,  
13 whenever police request it.

14 10. Sacramento Police do not obtain court orders to get customer data from  
15 SMUD. Nor is there evidence of that police have any “ongoing investigation” when  
16 SMUD’s dragnet provides details about every home in a zip code that uses more  
17 than a particular threshold of energy.

18 11. Sacramento Police and SMUD’s data-sharing practices and policies  
19 violate mandatory duties imposed on both under the California Constitution, Public  
20 Utilities Code § 8381, and Government Code § 6254.16. Plaintiffs seek a writ of  
21 mandate and declaratory and injunctive relief.

## 22 **THE PARTIES**

23 12. Petitioner ASIAN AMERICAN LIBERATION NETWORK (“AALN”) is  
24 a California non-profit benefit association.

25 13. AALN is a Sacramento-area community-based organization originally  
26 founded in 2020 as the Sacramento Asian/Pacific Islander Regional Network. In  
27 2021, Petitioner transitioned to a 501(c)(3) non-profit organization under the official  
28 name Asian American Liberation Network, with a mission to build power in the

1 Asian American community to advance social justice and collective liberation.  
2 Among its accomplishments over the past two years, Petitioner has dedicated  
3 significant efforts to engaging in anti-racism education, discussing issues of Asian  
4 Americans and the justice system, and addressing the harmful impacts of over-  
5 policing on the Asian community.

6 14. As an advocate for the Asian community in SMUD's service area,  
7 including the City of Sacramento, AALN has a clear, present, and beneficial interest  
8 in Respondents' performance of their statutory and constitutional duties, as set  
9 forth in this complaint. AALN's interest is distinct from the interest of the public at  
10 large because Respondents' failure to comply with their statutory and constitutional  
11 obligations has resulted in the targeting of the Asian community whose rights,  
12 among others, AALN and its members have committed to protect. AALN has an  
13 interest in maintaining the confidentiality of the vast trove of data maintained by  
14 SMUD and in ensuring that the data is not released in an unlawful manner that  
15 allows government, including the government of the City of Sacramento, to target  
16 any community, including the Asian community.

17 15. In addition to its beneficial interest, AALN, through its members, who  
18 rely on SMUD's services and live in the City of Sacramento and Sacramento Valley,  
19 are interested as citizens in having Respondents' statutory and constitutional duties  
20 enforced. There is a substantial public interest in the enforcement of Respondents'  
21 duties to safeguard the confidentiality of electricity usage and subscriber data  
22 because the disclosure of such sensitive information can be misused to target  
23 members of a particular community. Additionally, Respondents' unlawful practices  
24 have led to huge penalties being wrongly imposed on innocent property owners and  
25 undermined the fair administration of the laws. Respondents are public officials  
26 who are engaged in purposeful and systematic violations of their public duties, so  
27 this Court's intervention is the only adequate remedy available to AALN.  
28

1           16.     AALN, through its members, also challenges Respondents' illegal  
2 government actions in their capacity as a taxpayer to restrain and prevent their  
3 illegal expenditures. AALN's members have paid one or more taxes that fund the  
4 City of Sacramento within one year of the date of this Complaint, and on  
5 information and belief, have also paid, in the one year prior to this Complaint, one  
6 or more taxes that fund SMUD. Respondents LAU and LESTER are expending  
7 public funds in furtherance of an illegal scheme to release confidential and sensitive  
8 data. Respondents' expenditure of public funds, including their payment of salaries  
9 to employees to administer and implement the complained of practices, is an  
10 unlawful use of funds and should be enjoined.

11           17.     Petitioner KHURSHID KHOJA is a resident of the City of Sacramento  
12 and a SMUD subscriber.

13           18.     KHOJA has long been an advocate for the broader Asian community,  
14 including by way of serving as a prior board member and president of two Bay Area  
15 Asian American bar associations and as a board director of one of the nation's oldest  
16 Asian legal advocacy organizations. KHOJA is also an attorney who advises clients  
17 in the legal regulated cannabis industry in California. As part of his legal practice  
18 and commitment to public service, KHOJA has worked on social equity issues,  
19 including advancing the reform of cannabis laws and the protection of the legal  
20 cannabis industry through serving on the Board of Directors of the National  
21 Cannabis Industry Association, the California Cannabis Industry Association, and  
22 the Minority Cannabis Business Association.

23           19.     KHOJA challenges Respondents' illegal government actions in his  
24 capacity as a taxpayer to restrain and prevent their illegal expenditures. KHOJA  
25 has paid one or more taxes that fund the City of Sacramento within one year of the  
26 date of this Complaint, and on information and belief, has also paid, in the one year  
27 prior to this Complaint, one or more taxes that fund SMUD. Respondents LAU and  
28 LESTER are expending public funds in furtherance of illegal practices to release

1 confidential and sensitive data. Respondents' expenditure of public funds, including  
2 their payment of salaries to employees to administer and implement the complained  
3 of practices, is an unlawful use of funds and should be enjoined.

4 20. Respondent SMUD is a district and public authority organized under  
5 California's Municipal Utility District Act and a local publicly owned electric utility  
6 as defined by Public Utilities Code § 224.3. It is also a local agency as defined by  
7 Government Code § 6251(a). SMUD is the nation's sixth-largest community-owned  
8 electric service provider and serves over 600,000 electric subscriber accounts in the  
9 Sacramento Valley. Respondent SMUD is directed by Respondent LAU.

10 21. Respondent PAUL LAU is SMUD's current Chief Executive Officer and  
11 is sued in his official capacity. LAU is responsible for safeguarding the privacy of  
12 SMUD's consumer data, including when law enforcement demands access.

13 22. Respondent CITY OF SACRAMENTO is a political subdivision of the  
14 State of California.

15 23. Respondent KATHERINE LESTER is the current Chief of Police of the  
16 Sacramento Police Department and is sued in her official capacity. LESTER is  
17 responsible, *inter alia*, for supervising the Sacramento Police Department and  
18 establishing the policies and practices for requesting protected information from  
19 SMUD.

20 24. LAU, SMUD, LESTER, and CITY OF SACRAMENTO are collectively  
21 referred to as "Respondents." SMUD and LAU are collectively referred to as  
22 "SMUD." LESTER and the CITY OF SACRAMENTO are collectively referred to as  
23 "Sacramento Police" or "Sacramento."

#### 24 **JURISDICTION AND VENUE**

25 25. This Court has personal jurisdiction under Code of Civil Procedure  
26 §§ 525-526, 526a, 1060 & 1085. Venue is proper in the Superior Court of  
27 Sacramento County under Code of Civil Procedure §§ 393, 394 & 395 because  
28 Respondents in this action are public officers and public agencies situated in

1 Sacramento County and because all of the acts and omissions complained of took  
2 place in Sacramento County.

### 3 GENERAL ALLEGATIONS

#### 4 State Law Protects Consumer and Energy Usage Data

5 26. The California Legislature has recognized the sensitivity of consumer  
6 energy data. The California Public Utilities Commission has rules in place for  
7 private utilities like PG&E and Southern California Edison that allow disclosure to  
8 law enforcement only on a search warrant or a judicially approved subpoena.

9 27. Privacy laws evolved differently for public utilities because they are  
10 not subject to CPUC jurisdiction. Historically, consumer data was publicly  
11 available under the CPRA. Indeed, a California appellate court in 1990 ruled that  
12 the CPRA required a public utility to disclose its customer's usage records to a  
13 newspaper. Then a red flag went up in 1994: a police informant was murdered after  
14 a Tennessee public utility disclosed the informant's address to an unknown caller,  
15 as required by that state's public records law. In response, California public  
16 utilities called for the same level of privacy protection for their customers as  
17 provided by CPUC-regulated utilities. The California Legislature responded in  
18 1997 by amending the CPRA to prohibit public utilities from disclosing consumer  
19 information, except in narrow instances. Gov't Code § 6254.16.

20 28. Then in 2010, the California Legislature added Public Utilities Code  
21 § 8381, which further limits public utilities from disclosing customer information.  
22 (The Legislature simultaneously enacted Code § 8380, which limits disclosure by  
23 private utilities.) In general, a local public electric utility "shall not share, disclose,  
24 or otherwise make accessible to any third party a customer's electrical consumption  
25 data ...." *Id.* at § 8381(b)(1). Such a utility, however, is not precluded from sharing  
26 "as required under federal or state law." *Id.* at § 8381(f)(3). Under the 1997 privacy  
27 safeguards added to the CPRA, public utilities can disclose certain customer  
28



1 information “[u]pon court order or the request of a law enforcement agency relative  
2 to an ongoing investigation.” Gov’t Code § 6254.16(c).

3 **SMUD Rolls Out Smart Meters and Analytics Software**

4 29. In October 2009, the U.S. Department of Energy granted SMUD  
5 \$127.5 million to help implement a smart electric grid. One major component was  
6 an Advanced Metering Infrastructure, known as “smart meters.” By 2012, SMUD  
7 had replaced over 600,000 of its older analog meters with the new smart meters.

8 30. SMUD’s smart meters collect a customer’s electricity usage data in 15-  
9 minute or shorter intervals and send it to SMUD. Smart meters provide a  
10 significantly more detailed view of a consumer’s energy usage and behavior than  
11 traditional meters, which are typically read manually once per month.

12 31. After its smart meter roll-out, SMUD implemented analytics software  
13 from Detectent. The company said it would give SMUD “unprecedented  
14 intelligence” from its over 600,000 smart meters. Detectent added that its software  
15 had been “proven time and again to help utilities move to the next level of  
16 awareness with regard to how and when energy is used by their customers.”

17 32. SMUD provided its revenue protection group, including analysts  
18 Roberg Duggan and Michael Wolff, with access to its trove of smart meter and other  
19 customer data, and the Detectent software.

20 **State and Local Regulation of Cannabis Cultivation**

21 33. In 1996, California voters passed Proposition 215, the “Compassionate  
22 Use Act,” which exempted patients and caregivers from criminal penalties for  
23 cultivating marijuana for medical treatment. In 2003, in response, the California  
24 Legislature enacted the Medical Marijuana Program Act. Health & Safety Code §§  
25 11362.7 *et seq.* It allowed a qualified patient to maintain six mature or 12  
26 immature cannabis plants. It also allowed cities and counties to exceed the state  
27 limits. *Id.* § 11362.77(c).  
28

1           34.     Sacramento elected to exceed the state limits. In 2012, it passed  
2 Ordinance No. 2012-045, which placed no limit on the number of plants a qualifying  
3 person could cultivate in a residence (though it did limit the “cumulative area” of  
4 cultivation to 400 square feet). For years, Sacramento undertook little enforcement  
5 of cannabis cultivation for medicinal use.

6           35.     In November 2016, California voters passed Proposition 64, the  
7 “Control, Regulate and Tax Adult Use of Marijuana Act.” Among other things, it  
8 legalized cultivation of up to six cannabis plants in a residence by any adult.  
9 Health & Safety Code § 11362.2.

10          36.     In 2017, Sacramento established a Department of Cannabis Policy and  
11 Enforcement. In May 2017, its first chief, Joe Devlin described his role: “We’re  
12 going to be doing permitting, working with the police department and our code  
13 enforcement around enforcement of illegal grows and illegal manufacturing  
14 primarily taking place in residential neighborhoods while permitting and issuing  
15 licenses for what is now and will be the legal production of cannabis.”

16          37.     In Summer 2017, Devlin provided the plan. Sacramento would modify  
17 the prior 400-square-foot medical marijuana cultivation ordinance and limit  
18 residential cultivation to one room and six plants. In September 2017, Sacramento  
19 Ordinance No. 2017-0047 officially adopted the new penalty. The Ordinance is  
20 enforceable by criminal sanctions, and civil penalties or administrative penalties of  
21 \$500 per plant for cultivation over six plants.

22                           **SMUD Shares Customer Data with Sacramento Police**

23          38.     As part of modifying its ordinance, Sacramento Police, including then-  
24 Captain (now-Deputy Chief) Dave Paletta and Officer Kelli Streich, had approached  
25 SMUD with a request for consumer energy usage data. SMUD analysts Duggan  
26 and/or Wolff used SMUD’s systems to search consumer records for entire regions of  
27 Sacramento. After identifying users meeting a particular energy threshold, SMUD  
28 delivered to Sacramento Police one or more lists of names, addresses, and electricity

1 usage data. Based on this data, in the summer of 2017, chief Devlin reported that  
2 “1,000 homes in the city are estimated to have illegal residential cultivation in  
3 varying degrees.”

4 39. Since then, SMUD has regularly provided these lists to Sacramento  
5 Police. Paletta and Streich asked Lindsey Mendoza, a Sacramento Police data  
6 analyst, to assist. Streich, Mendoza, and other officers periodically email a form to  
7 Duggan and/or Wolff at SMUD. The form typically asks SMUD for lists of all the  
8 customers within one or more specified zip codes that use more than a particular  
9 amount of energy (*e.g.*, above 3,000kWh in a month). SMUD analysts respond by  
10 disclosing lists with names, addresses, and electricity usage for a given period, as  
11 well as other assessments based on smart meter data.

12 40. The lists disclosed by SMUD serve as the starting point for police  
13 investigations and municipal enforcement proceedings against individual residents  
14 and homeowners. In other words, prior to obtaining SMUD’s lists, law enforcement  
15 does not have an ongoing investigation regarding any SMUD customer, resident, or  
16 homeowner.

17 41. Upon getting the SMUD lists, Mendoza pulls owner parcel information  
18 for each of the addresses and correlates it with the SMUD subscriber information.  
19 A subscriber name that is different from an owner name suggests a rental. Both  
20 sets of names indicate whether the tenant and/or owner may be Asian.

21 42. For some of the properties on SMUD’s lists, Mendoza mails letters to  
22 occupants and/or owners. The form letters, which the Sacramento City Attorney’s  
23 office had translated into Chinese but no other language, say that the “Sacramento  
24 Police Department is concerned that your above-referenced property might be being  
25 used for indoor cultivation of cannabis,” and asks the recipient to contact police.

26 43. The SMUD lists frequently lead to letters being sent to residences  
27 where there is no cannabis cultivation. For instance, in the Fall of 2018, the  
28

1 daughter of one recipient of a police letter reported that her elderly mother was not  
2 growing cannabis, but rather kept her lights on at all times due to safety concerns.

3 44. Some properties on SMUD lists are not sent a letter. Instead,  
4 Mendoza passes the SMUD and other information to Sacramento Police area teams  
5 which are broken out by geographic region. Only after these police teams receive  
6 Mendoza's lists, which contain SMUD information, do they begin to conduct  
7 traditional, individualized investigations into particular customers. At this stage,  
8 officers do traditional sleuthing, *e.g.*, drive-bys and running license plates. They  
9 also frequently ask Duggan or Wolff for more current subscriber data, including  
10 social security, telephone, and drivers' license numbers. Duggan and/or Wolff  
11 provide such information. In responding, Duggan and/or Wolff search SMUD's  
12 repositories, including smart meter interval data, and respond with their insights,  
13 such as whether the resident is growing cannabis, or whether electricity use fell off  
14 on a particular date.

15 45. When police conclude that a home or property might have an unlawful  
16 grow operation, they apply for a criminal warrant, with assistance from the  
17 Sacramento City Attorney's office. To apply for a criminal warrant, Sacramento  
18 Police often return to Duggan and/or Wolff for more data. The SMUD analysts  
19 provide electrical consumption data for neighboring homes around a suspected  
20 property. Police then put that comparison information into the warrant, which  
21 frequently enters the public record.

22 46. If they obtain a criminal warrant, Sacramento Police raid the property.

### 23 **Sacramento Monetizes SMUD's Data**

24 47. Sacramento Police's use of the data SMUD discloses is not limited to  
25 prosecuting excessive cannabis cultivators. Instead, police also penalize the  
26 property owner, even when Sacramento Police have no evidence that the owner has  
27 been complicit in a tenant's illicit cultivation. The penalties are routinely five or six  
28 figures.

1           48. Owners can appeal to Sacramento’s administrative hearing process,  
2 which Devlin in the Summer of 2017 said would make the penalties “[e]asy to  
3 enforce.” In a September 2019 Capital Public Radio article, one attorney described  
4 the hearings more simply — “a kangaroo court.” When Sacramento prosecutors told  
5 one Superior Court judge that the hearings are “looser in nature,” the judge  
6 responded that he was “troubled by the notion that a quick, informal hearing, in  
7 which the rules of evidence are not followed, resulting in an enormous penalty” is  
8 sufficient to meet due process.

9           49. SMUD’s release of sensitive consumer data, based simply on generic  
10 requests from Sacramento Police, has resulted in Sacramento issuing about \$100  
11 million in penalties against homeowners in less than two years.

12           50. Between the Fall of 2017 and the Fall of 2019, the vast majority—  
13 nearly 90 percent—of people against whom the city imposed fines were of Asian  
14 descent. Both public statements and publicly available information demonstrate  
15 that this outcome is the result of a concentrated and targeted effort by the  
16 Sacramento Police and the Sacramento City Attorney’s Office.

17           51. In fulfilling Sacramento Police’s requests for data, SMUD has  
18 sometimes omitted homes in a predominantly white area. A Sacramento Police  
19 officer, in passing along a list of names provided by SMUD, removed non-Asian  
20 names from the list, leaving only Asian-sounding names for further attention.

21           52. The Sacramento City Attorney’s office has made several statements  
22 that show a bias against the Asian community. At one penalty appeal hearing, a  
23 Deputy City Attorney demanded of an Asian property manager if he knew there  
24 was a “problem with Asian people and grow houses.” In another, a second Deputy  
25 City Attorney insinuated that the Asian owner was involved with “organized crime,”  
26 an accusation later rejected as baseless by a superior court judge.

27           53. SMUD regularly releases to Sacramento Police private customer data  
28 that California law requires to be kept under lock and key. Predictably, abuse

1 follows: about \$100 million in penalties in just two years; 86% of assessments  
2 against Asians; hearings that are “looser in nature”; and a “high priority” on  
3 collections because the city budget was “lean.”

4 54. SMUD regularly searches protected customer data and releases it to  
5 law enforcement agencies in other parts of SMUD’s coverage area in violation of  
6 governing laws.

7 **COUNT ONE**  
8 **(Violation of California Constitution’s Article I, Section 13)**  
9 **(Against All Defendants)**

10 55. All of the preceding allegations are incorporated by reference.

11 56. Article I, Section 13 of the California Constitution mandates, at a  
12 minimum, that government officials have individualized suspicion of a violation of  
13 the law before conducting a search or seizure for purposes of law enforcement.

14 57. All Respondents have a ministerial duty under Article I, Section 13 of  
15 the California Constitution to have individualized suspicion of a violation of the law  
16 before conducting a search or seizure for purposes of law enforcement.

17 58. SMUD customers have a reasonable expectation of privacy in their  
18 electricity usage data and their social security, telephone, and drivers’ license  
19 numbers that SMUD discloses. This includes a reasonable expectation of privacy  
20 that government officials will not search or seize this data for purposes of law  
21 enforcement unless these officials have individualized suspicion of a violation of the  
22 law.

23 59. All Respondents have a pattern and practice of searching and seizing  
24 SMUD customers’ electricity usage data, for purposes of law enforcement, without  
25 having individualized suspicion of a violation of the law.

26 60. Petitioners have no plain, speedy and adequate remedy in the ordinary  
27 course of law, other than the relief sought herein.

28 **COUNT TWO**  
**(Violations of Public Utilities Code § 8381 and Gov’t Code § 6254.16)**

1 **(Against All Defendants)**

2 61. All of the preceding allegations are incorporated by reference.

3 62. Public Utilities Code § 8381(b)(1) mandates that SMUD “shall not  
4 share, disclose, or otherwise make accessible to any third party a customer’s  
5 electrical consumption data,” except in limited circumstances, including disclosure  
6 “as required under state or federal law.” § 8381(f)(3).

7 63. Government Code § 6254.16 is a state law prohibiting the disclosure of  
8 SMUD customer utility data and related customer information (such as credit  
9 history, home address and telephone number) except “[u]pon court order or the  
10 request of a law enforcement agency relative to an ongoing investigation.”  
11 § 6254.16(c).

12 64. Respondents SACRAMENTO and LESTER have a ministerial duty to  
13 only seek disclosure of certain information protected by Public Utilities Code § 8381  
14 and Government Code § 6254.16 from SMUD upon the presentment of a court order  
15 or relative to an ongoing investigation.

16 65. Respondents SACRAMENTO and LESTER have a pattern and  
17 practice of requesting sensitive customer information in the absence of a court order  
18 or an ongoing investigation, in violation of Public Utilities Code § 8381 and  
19 Government Code § 6254.16.

20 66. Respondents SMUD and LAU have a ministerial duty to not share,  
21 disclose, or otherwise make accessible customer information protected by Public  
22 Utilities Code § 8381 and Government Code § 6254.16 to law enforcement unless  
23 presented with a court order or upon a request relative to an ongoing investigation,  
24 or as otherwise provided for by law.

25 67. Respondents SMUD and LAU have a pattern and practice of sharing,  
26 disclosing, or making accessible customer information to law enforcement, in the  
27 absence of a court order or an ongoing investigation, in violation of Public Utilities  
28 Code § 8381 and Government Code § 6254.16.

1           68. Petitioners have no plain, speedy and adequate remedy in the ordinary  
2 course of law, other than the relief sought herein.

3                                   **PRAYER FOR RELIEF**

4           WHEREFORE, Plaintiffs/Petitioners prays as follows:

5           1. The Court issue an alternative and/or a peremptory writ of mandate  
6 commanding Respondents CITY OF SACRAMENTO and LESTER to take no  
7 further steps towards violating Government Code § 6254.16 or Public Utilities Code  
8 § 8381 by requesting customer information from SMUD (a) concerning properties in  
9 a specific area, such as within a zip code, (b) concerning one or more specific  
10 properties, without a court order or in the absence of an ongoing investigation, or  
11 otherwise specifically provided for by law.

12           2. The Court issue an alternative and/or a peremptory writ of mandate  
13 commanding Respondents SMUD and LAU to take no further steps towards  
14 violating Public Utilities Code § 8381 by sharing, disclosing, or otherwise making  
15 accessible to a law enforcement agency, including the Sacramento Police  
16 Department, customer information (a) concerning properties in a specific area, such  
17 as within a zip code, or (b) concerning one or more specific properties, without a  
18 court order or in the absence of an ongoing investigation, or otherwise specifically  
19 provided for by law.

20           3. The Court issue a declaratory judgment that Respondents' policies and  
21 practices challenged herein:

- 22                           a. Violate Article I, Section 13 of the California Constitution.  
23                           b. Violate Public Utilities Code § 8381 and Government Code  
24                                 § 6254.16.  
25                           c. Constitute an illegal expenditure of taxpayer funds.

26           4. The Court enjoin CITY OF SACRAMENTO and LESTER, and each of  
27 them, their agents, servants, and employees, from requesting customer information  
28 from SMUD (a) concerning properties in a specific area, such as within a zip code,



1 or (b) concerning one or more specific properties, without a court order or in the  
2 absence of an ongoing investigation, or otherwise specifically provided for by law.

3 5. The Court enjoin SMUD and LAU, and each of them, their agents,  
4 servants, and employees, from sharing, disclosing, or otherwise making accessible  
5 to a law enforcement agency, including the Sacramento Police Department,  
6 customer information (a) concerning properties in a specific area, such as within a  
7 zip code, or (b) concerning one or more specific properties, without a court order or  
8 in the absence of an ongoing investigation, or otherwise specifically provided for by  
9 law.

10 6. The Court enjoins SMUD and LAU, and each of them, their agents,  
11 servants, and employees, from sharing, disclosing, or otherwise making accessible  
12 to a law enforcement agency, including the Sacramento Police Department,  
13 customers' Social Security, driver's license, or telephone numbers, in the absence of  
14 an ongoing investigation, or otherwise specifically provided for by law;

15 7. The Court award costs;

16 8. The Court award reasonable attorney's fees according to California  
17 Code of Civil Procedure § 1021.5 or as otherwise provided by law; and

18 9. The Court award such other relief as the Court may deem appropriate.  
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Respectfully Submitted,

Dated: September 20, 2022

ELECTRONIC FRONTIER FOUNDATION



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SAIRA HUSSAIN  
AARON MACKEY  
ADAM SCHWARTZ  
Attorneys for Petitioners/Plaintiffs

Dated: September 20, 2022

VALLEJO | ANTOLIN |  
AGARWAL | KANTER LLP



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MONTY AGARWAL  
RACHEL CHANIN  
Attorneys for Petitioners/Plaintiffs

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**VERIFICATION**

I, Monty Agarwal, declare: I am an attorney for the Petitioners in this matter I have read the foregoing verified petition for writ of mandate and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true. I verify this Petition instead of Petitioners because Petitioners are absent from the county where I have my office.

Executed on September 20, 2022, at Contra Costa County, California.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 20, 2022



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Monty Agarwal