

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: January 14, 2019

TO: Honorable Members of the City Council

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 18-0366-S24
Assignment No: 19-01-0004

SUBJECT: Utility Disconnection at Unlicensed Cannabis Businesses

CLA RECOMMENDATIONS:

1. Request the City Attorney to prepare an ordinance which would authorize the Department of Water and Power (LADWP) to disconnect utilities at a service address if the following two conditions are met:
 - a. The Department of Cannabis Regulation (DCR) provides written confirmation that the address in question does not have a license to engage in commercial cannabis activity; and
 - b. The Police Department (LAPD) or another City department provides written confirmation to LADWP that commercial cannabis activity is occurring at an address.
2. Instruct LADWP, LAPD and DCR to report back 120 days after the implementation of an ordinance on the number of unlicensed businesses that have been subject to utility disconnection, with associated costs, and on the impact it has had on the number of unlicensed cannabis businesses operating in the City.

SUMMARY

On October 30, 2018, this Office was instructed to report, in coordination with DCR, LADWP, LAPD and the City Attorney, with recommendations to address concerns expressed in LADWP's correspondence to the Rules, Elections and Intergovernmental Relations Committee dated October 18, 2018 (Attachment 1), related to disconnecting utilities at unlicensed cannabis businesses.

LADWP's concerns were as follows:

- LADWP is not suited to make a determination as to what person or entity is a cannabis "establishment," as defined in Proposition M;
- LADWP staff are not trained to handle potential criminal situations, and will require support from LAPD when disconnecting utility services at unlicensed establishments; and
- A detailed process is needed for communication and coordination of service disconnection, along with subsequent service reconnection.

Since being directed to report on this issue, relevant departments have met a number of times to discuss these issues, and have designed an internal process for utility disconnection which ensures coordination and communication between departments and guarantees the safety of LADWP employees. In order to begin disconnecting utilities at unlicensed cannabis businesses, an ordinance is needed to authorize LADWP to disconnect utilities when specific information has been provided to the Department through the following process:

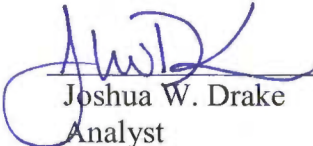
- a. The Department of Cannabis Regulation (DCR) provides written confirmation to LADWP that the address in question does not have a license to engage in commercial cannabis activity; and
- b. The Police Department (LAPD) or another City department provides written confirmation to LADWP that commercial cannabis activity is occurring at an address.

In March 2017, the City's voters approved Proposition M, the Cannabis Enforcement, Taxation and Regulation Act (CETRA). Section 45.19.7.3(E) of CETRA states that "The Department of Water and Power is authorized to disconnect utilities for [unlicensed cannabis] establishments. The circumstances and manner in which disconnection shall occur shall be specified by the City Council after receiving input from the Department of Water and Power."

On September 18, 2018 a Motion (Martinez - Rodriguez – et. al.) was introduced instructing the LADWP and DCR to report to the Council in 30 days on the viability of implementing an ordinance that allows the City to disconnect/shut-off utility service to unlicensed businesses engaged in cannabis sales (Attachment 2). In response to this Motion and subsequent instruction from the Council, LADWP, LAPD, DCR and the City Attorney have developed a plan to disconnect utilities at unlicensed cannabis locations.

As proposed by the above departments, a multi-step process will be created in order to verify that a business is engaged in suspected unlicensed cannabis activity. When a complaint is received about a specific address engaging in unlicensed cannabis activity, DCR will check to see if the address is licensed, and provide written verification to LAPD and LADWP if it is not. LAPD will then investigate the specified address in order to verify that cannabis activity is occurring there and provide written verification to LADWP that the address is an unlicensed cannabis establishment subject to utility shut-off. LADWP will then disconnect utilities, with support from LAPD in any cases they determine it is needed. LADWP will then flag the address in their system so that a new account cannot be opened by unlicensed cannabis businesses.

It should be noted that as this process is implemented, LAPD and LADWP may not have sufficient resources available to quickly shut off utilities to all unlicensed cannabis businesses in the City. As this process is implemented, the departments should report back with metrics related to the number of unlicensed businesses that have been subject to this enforcement, with related costs, and the impact of this program on the number of unlicensed businesses in the City.


Joshua W. Drake
Analyst

SMT:jwd

Attachment: 1. Communication from LADWP dated October 18, 2018
2. Motion (Martinez – Rodriguez – et. al.)



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October 18, 2018

The Honorable City Council
Office of the City Clerk
Room 395, City Hall
Mail Stop 160

Attention: Council President Herb Wesson, Chairperson
Rules, Elections and Intergovernmental Relations Committee

Honorable Members:

Subject: Council File No. 14-0366-S24 – Unlicensed Cannabis Businesses /
Disconnect / Shut-Off of Utility Services / Ordinance

This is in response to the subject referenced motion that requests/instructs the Los Angeles Department of Water and Power (LADWP) and the Department of Cannabis Regulation (DCR) to report to the Los Angeles City Council (Council) on the viability of implementing an ordinance that allows the City of Los Angeles to disconnect/shut off utility services to unlicensed businesses engaged in cannabis sales.

Proposition 64, approved by voters November 2016, legalized recreational use of marijuana in California. Measure M, approved by voters in the City of Los Angeles March 2017, enacted the Los Angeles Cannabis Enforcement, Taxation and Regulation Act (CETRA), the city council's ordinance to regulate and tax marijuana. CETRA Section 45.19.7.3 (E) authorizes LADWP to disconnect utilities for establishments with specific circumstances and manner in which disconnection shall occur to be specified by the Council after receiving input from LADWP.

While CETRA authorizes LADWP to disconnect services of "establishments" there are additional steps which need to be undertaken before LADWP can implement the disconnections. In particular, CETRA provides that the "circumstances and manner" in which disconnection shall occur to be specified by the Council after receiving input from

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LADWP. LADWP has been meeting with DCR, Los Angeles Police Department (LAPD), and certain Councilmembers and their staffs as part of the input discussions. Items in discussion have focused on the following:

- LADWP is a utility provider and is not suited to make a determination as to what person or entity is an “establishment” under CETRA. That assessment should be made by City departments qualified to do so. Once LADWP is notified, in writing, by the appropriate Department, that a particular address is an “establishment”, LADWP would then be in a position to implement the disconnection of services.
- LADWP staff is not trained in confronting potential criminal situations. Therefore, it is paramount for the safety of LADWP staff that they have support from LAPD while disconnecting services.
- Lastly, a detailed process needs to be established for communication and coordination of the service disconnection, along with the subsequent reconnection of services.

Thank you for your consideration of LADWP’s input relative to the specific circumstances and manner in which disconnection of utility services to “establishments” may occur.

If you have any questions or if further information is required, please call me at (213) 367-1338, or have your staff contact Ms. Winifred Yancy, Director of Legislative and Intergovernmental Affairs, at (213) 367-0025.

Sincerely,



David H. Wright
General Manager

WJY:nsh

c: Councilmember Nury Martinez, Chair of Energy, Climate Change, and
Environmental Justice Committee
Councilmember Monica Rodriguez
Councilmember Mike Bonin
Councilmember David E. Ryu
Ms. Winifred J. Yancy

MOTION

RULES, ELECTIONS, INTERGOVERNMENTAL RELATIONS

Proposition 64, approved by voters on November 8, 2016, allows for the recreational use of, sale, and taxation of cannabis in the State of California. The Initiative set an effective date of January 1, 2018 for the sale of cannabis, necessitating the implementation of state and local rules to regulate commercial cannabis activity. As a result, businesses must have both a state license and local approval to engage in commercial cannabis activity.

Within the City of Los Angeles, local approval to engage in commercial cannabis activity is addressed by the Department of Cannabis Regulation (DCR). The DCR is responsible for licensing and regulating legal cannabis businesses.

Despite efforts to effectively regulate cannabis sales, there is growing concern over the illegal sale of cannabis by unlicensed businesses. The illegal sale of cannabis can impact communities and effect the operations of properly licensed businesses.

Cities in the region have considered different methods and approaches to address the sale of cannabis by unlicensed businesses. One of the key options considered has been the disconnection/shut-off of utility service to unlicensed businesses involved in cannabis sales. By cutting off water and power, these businesses are immediately hampered from engaging in this activity; thereby limiting their impact on the local community.

The City's regulation of commercial cannabis activity could benefit from this approach. It should strongly consider the viability of implementing utility service disconnection/shut-off to aid local enforcement efforts.

I THEREFORE MOVE that the Department of Water and Power and the Department of Cannabis Regulation be requested/instructed to report to the Council in 30 days on the viability of implementing an ordinance that allows the City to disconnect/shut-off utility service to unlicensed businesses engaged in cannabis sales.

CO-PRESENTED BY: Monica Rodriguez Nury Martinez
MONICA RODRIGUEZ NURY MARTINEZ
Councilwoman, 7th District Councilwoman, 6th District

SECONDED BY: [Signature] [Signature]
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SEP 18 2018

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