

ASSEMBLY BILL

No. 6

Introduced by Assembly Members Dutra and Pescetti

January 11, 2001

An act to amend Sections 216 and 377 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 6, as introduced, Dutra. Electrical restructuring.

(1) Existing law requires generation assets owned by any public utility prior to June 1, 1997, and subject to rate regulation by the Public Utilities Commission, to continue to be subject to regulation by the commission until those assets have undergone market valuation, as specified.

This bill, in addition, would require those assets to continue to be subject to that regulation until the commission has authorized the disposition of those assets pursuant to prescribed provisions of law.

(2) Existing law requires the commission to continue to regulate the nonnuclear generation assets owned by any public utility prior to January 1, 1997, that are subject to regulation by the commission until those assets have been subject to market valuation, as prescribed.

This bill, in addition, would require those assets to continue to be subject to that regulation until the commission has authorized the disposition of those assets pursuant to prescribed provisions of law.

Because, under existing law, a violation of the above provisions with regard to regulation by the commission would be a crime, this bill would impose a state-mandated local program by changing the definition of a crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 216 of the Public Utilities Code is
2 amended to read:

3 216. (a) “Public utility” includes every common carrier, toll
4 bridge corporation, pipeline corporation, gas corporation,
5 electrical corporation, telephone corporation, telegraph
6 corporation, water corporation, sewer system corporation, and
7 heat corporation, where the service is performed for, or the
8 commodity is delivered to, the public or any portion thereof.

9 (b) Whenever any common carrier, toll bridge corporation,
10 pipeline corporation, gas corporation, electrical corporation,
11 telephone corporation, telegraph corporation, water corporation,
12 sewer system corporation, or heat corporation performs a service
13 for, or delivers a commodity to, the public or any portion thereof
14 for which any compensation or payment whatsoever is received,
15 that common carrier, toll bridge corporation, pipeline corporation,
16 gas corporation, electrical corporation, telephone corporation,
17 telegraph corporation, water corporation, sewer system
18 corporation, or heat corporation, is a public utility subject to the
19 jurisdiction, control, and regulation of the commission and the
20 provisions of this part.

21 (c) When any person or corporation performs any service for,
22 or delivers any commodity to, any person, private corporation,
23 municipality, or other political subdivision of the state, that in turn
24 either directly or indirectly, mediately or immediately, performs
25 that service for, or delivers that commodity to, the public or any
26 portion thereof, that person or corporation is a public utility subject
27 to the jurisdiction, control, and regulation of the commission and
28 the provisions of this part.



(d) Ownership or operation of a facility that employs cogeneration technology or produces power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology does not make a corporation or person a public utility within the meaning of this section solely because of the ownership or operation of ~~such a~~ *that* facility.

(e) Any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.

(f) The ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from ~~such a~~ *that* facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, operation, or sale.

(g) Ownership or operation of a facility that has been certified by the Federal Energy Regulatory Commission as an exempt wholesale generator pursuant to Section 32 of the Public Utility Holding Company Act of 1935 (Chapter 2C (commencing with Section 79) of Title 15 of the United States Code) does not make a corporation or person a public utility within the meaning of this section, solely due to the ownership or operation of that facility.

(h) Generation assets owned by any public utility prior to January 1, 1997, and subject to rate regulation by the commission, shall continue to be subject to regulation by the commission until ~~the owner of those assets have undergone market valuation has applied to the commission,~~ in accordance with procedures established by the commission *under Section 851, to dispose of those assets and has been authorized by the commission to undertake that disposal.*

(i) The ownership, control, operation, or management of an electric plant used for direct transactions or participation directly or indirectly in direct transactions, as permitted by subdivision (b) of Section 365, sales into the Power Exchange referred to in

1 Section 365, or the use or sale as permitted under subdivisions (b)
2 to (d), inclusive, of Section 218, shall not make a corporation or
3 person a public utility within the meaning of this section solely
4 because of that ownership, participation, or sale.

5 SEC. 2. Section 377 of the Public Utilities Code is amended
6 to read:

7 377. The commission shall continue to regulate the
8 nonnuclear generation assets owned by any public utility prior to
9 January 1, 1997, that are subject to commission regulation until *the*
10 *owner of those assets have been subject to market valuation in*
11 *accordance with procedures established by the commission. If,*
12 *after market valuation, the public utility wishes to retain*
13 *ownership of nonnuclear generation assets in the same corporation*
14 *as the distribution utility, the public utility shall demonstrate to the*
15 *satisfaction of the commission, through a public hearing, that it*
16 *would be consistent with the public interest and would not confer*
17 *undue competitive advantage on the public utility to retain that*
18 *ownership in the same corporation as the distribution utility has*
19 *applied to the commission to dispose of those assets under Section*
20 *851 and has received approval from the commission to undertake*
21 *that disposal.*

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

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