

AMENDED IN ASSEMBLY APRIL 4, 2001

AMENDED IN SENATE MARCH 7, 2001

AMENDED IN SENATE MARCH 1, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

**SENATE BILL**

**No. 43**

**Introduced by Senators Alpert, Battin, Morrow, and Peace**  
(Coauthors: Assembly Members Bates, Kehoe, La Suer, Vargas,  
Wayne, Wyland, and Zettel)

February 9, 2001

An act to amend Section 332.1 of, *and to add Section 332.2 to*, the Public Utilities Code, ~~and to amend Section 80134 of the Water Code,~~ relating to electric power, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Alpert. ~~San Diego Gas and Electric Company: rates: Department of Water Resources: revenues~~ *Electric power.*

(1) The Public Utilities Act requires the Public Utilities Commission to establish a ceiling of \$.065 per kilowatthour on the energy component of electric bills for residential, small commercial, and lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000, as prescribed. The commission may extend the ceiling through December 2003, as specified. Existing law requires the commission to determine that portion of each existing electrical corporation's retail rate effective on January 5, 2001, that is equal to the difference between the generation related component of the retail rate and the sum of the costs of the



utility's own generation, qualifying facility contracts, existing bilateral contracts, and ancillary services, to be known as the California Procurement Adjustment. Existing law requires the commission to further determine the amount of the California Procurement Adjustment that is allocable to the power sold by the Department of Water Resources, which is payable by each electrical corporation to the department for deposit in the Department of Water Resources Electric Power Fund, and known as the Fixed Department of Water Resources Set-Aside.

This bill would, *instead*, require the commission to also establish a ~~frozen rate ceiling of \$.065~~ *\$0.065* per kilowatthour on the energy component of electric bills for ~~all customers of the San Diego Gas and Electric Company not subject to the ceiling imposed by existing law, through December 31, 2002, retroactive to February 7, 2001.~~ *electricity supplied to residential, small commercial, and street lighting customers by the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. The bill would require the commission to also establish a frozen rate of \$0.065 per kilowatthour on the energy component of electric bills for electricity supplied to all customers by the San Diego Gas and Electric Company not subject to the ceiling imposed by existing law, through December 31, 2002, retroactive to February 7, 2001. The bill would provide that a frozen rate established shall not result in any retroactive recovery of undercollections by the San Diego Gas and Electric Company. The bill would require that any undercollection resulting from rate reductions retroactive to February 7, 2001, not result in a revenue undercollection to San Diego Gas and Electric Company.* The bill would require the commission to adjust the California Procurement Adjustment and the Fixed Department of Water Resources Set-Aside for those customers, as prescribed. The bill would make a related ~~statement~~ *statements* about the construction of the bill. Since a violation of a rule or order of the commission is a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) ~~Existing law requires the department to enter into contracts for the purchase of electric power, and authorizes the department to sell power to retail end use customers and, with specified exceptions, to local publicly owned electric utilities at not more than the department's acquisition costs, as specified. Existing law authorizes the department to issue revenue bonds not to exceed a certain amount, containing specified terms and conditions, upon authorization by written determination of the department and with the approval of the Director~~

~~of Finance and the Treasurer, as specified. Existing law requires the department to establish and revise revenue requirements sufficient, together with any moneys on deposit in the fund, to provide amounts necessary for specified purposes relating to the provision of power and bond repayment, and to notify the commission of its revenue requirement.~~

~~This bill would include among those revenue requirements to be established an amount necessary to reimburse the department for any undercollection of the department’s acquisition costs, plus certain other costs, pursuant to the rate requirements imposed by the bill.~~

~~(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.~~

~~(4)~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: 2/3. 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 332.1 of the Public Utilities Code is~~  
2 *SECTION 1. Section 332.1 of the Public Utilities Code is*  
3 *amended to read:*

4 332.1. (a) (1) It is the intent of the Legislature to enact Item  
5 1 (revised) on the commission’s August 21, 2000 agenda, entitled  
6 “Opinion Modifying Decision (D.) D.00-06-034 and  
7 D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas  
8 and Electric Company,” as modified below.

9 (2) It is also the intent of the Legislature that to the extent that  
10 the Federal Energy Regulatory Commission orders refunds to  
11 electrical corporations pursuant to their findings, the commission  
12 shall ensure that any refunds are returned to customers.

13 (b) The commission shall establish a ceiling of six and  
14 ~~five-tenth~~ *five-tenths* cents ~~(\$.065)~~ *(\$0.065)* per kilowatt hour on  
15 the energy component of electric bills for *electricity supplied to*  
16 residential, small commercial, and street lighting customers ~~of by~~



1 the San Diego Gas and Electric Company, through December 31,  
2 2002, retroactive to June 1, 2000. If the commission finds it in the  
3 public interest, this ceiling may be extended through December  
4 2003 and may be adjusted as provided in subdivision (d).

5 (c) The commission shall establish an accounting procedure to  
6 track and recover reasonable and prudent costs of providing  
7 electric energy to retail customers unrecovered through retail bills  
8 due to the application of the ceiling provided for in subdivision (b).  
9 The accounting procedure shall utilize revenues associated with  
10 sales of energy from utility-owned or managed generation assets  
11 to offset an undercollection, if undercollection occurs. The  
12 accounting procedure shall be reviewed periodically by the  
13 commission, but not less frequently than semiannually. The  
14 commission may utilize an existing proceeding to perform the  
15 review. The accounting procedure and review shall provide a  
16 reasonable opportunity for San Diego Gas and Electric Company  
17 to recover its reasonable and prudent costs of service over a  
18 reasonable period of time.

19 (d) If the commission determines that it is in the public interest  
20 to do so, the commission, after the date of the completion of the  
21 proceeding described in subdivision (g), may adjust the ceiling  
22 from the level specified in subdivision (b), *and may adjust the*  
23 *frozen rate from the levels specified in subdivision (f)*, consistent  
24 with the Legislature's intent to provide substantial protections for  
25 customers of the San Diego Gas and Electric Company and their  
26 interest in just and reasonable rates and adequate service.

27 (e) For purposes of this section, "small commercial customer"  
28 includes, but is not limited to, all San Diego Gas and Electric  
29 Company accounts on Rate Schedule A of the San Diego Gas and  
30 Electric Company, all accounts of customers who are "general  
31 acute care hospitals," as defined in Section 1250 of the Health and  
32 Safety Code, all San Diego Gas and Electric Company accounts  
33 of customers who are public or private schools for pupils in  
34 kindergarten or any of grades 1 to 12, inclusive, and all accounts  
35 on Rate Schedule AL-TOU under 100 kilowatts.

36 (f) The commission shall establish ~~a program for large~~  
37 ~~commercial, agricultural, and industrial customers who buy~~  
38 ~~energy from the San Diego Gas and Electric Company, on a~~  
39 ~~voluntary basis, at the election of the customer, to set the energy~~  
40 ~~component of their bills at six and five tenths cents (\$.065) per~~



1 ~~kilowatt hour with a true-up after a year~~ *an initial frozen rate of six*  
2 *and five-tenths cents (\$0.065) per kilowatthour on the energy*  
3 *component of electric bills for electricity supplied to all customers*  
4 *by the San Diego Gas and Electric Company not subject to*  
5 *subdivision (b), for the time period ending with the end of the rate*  
6 *freeze for the Pacific Gas and Electric Company and the Southern*  
7 *California Edison Company pursuant to Section 368, retroactive*  
8 *to February 7, 2001. The commission shall consider the*  
9 *comparable energy components of rates for comparable customer*  
10 *classes served by the Pacific Gas and Electric Company and the*  
11 *Southern California Edison Company and, if it determines it to be*  
12 *in the public interest, the commission may adjust this frozen rate,*  
13 *and may do so, retroactive to the date that rate increases took effect*  
14 *for customers of Pacific Gas and Electric Company and Southern*  
15 *California Edison Company pursuant to the commission's March*  
16 *27, 2001, decision. The commission shall adjust the California*  
17 *Procurement Adjustment and the Fixed Department of Water*  
18 *Resources Set-Aside determined pursuant to Section 360.5 for*  
19 *customers subject to this section to reflect a retail rate consistent*  
20 *with the rate for the energy component of electric bills as*  
21 *determined in this subdivision, in place of the retail rate in effect*  
22 *on January 5, 2001. This section shall be construed to modify the*  
23 *payment provisions, but may not be construed to modify the*  
24 *electric procurement obligations of the Department of Water*  
25 *Resources, pursuant to any contract or agreement in accordance*  
26 *with Division 27 (commencing with Section 80000) of the Water*  
27 *Code, and in effect as of February 7, 2001, between the*  
28 *Department of Water Resources and San Diego Gas and Electric*  
29 *Company.*

30 (g) The commission shall institute a proceeding to examine the  
31 prudence and reasonableness of the San Diego Gas and Electric  
32 Company in the procurement of wholesale energy on behalf of its  
33 customers, for a period beginning at the latest on June 1, 2000. If  
34 the commission finds that San Diego Gas and Electric Company  
35 acted imprudently or unreasonably, the commission shall issue  
36 orders that it determines to be appropriate affecting the retail rates  
37 of San Diego Gas and Electric Company customers including, but  
38 not limited to, refunds.

39 (h) *Nothing in this section shall be construed to limit the*  
40 *authority of the Department of Water Resources pursuant to*

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1 *Division 27 (commencing with Section 80000) of the Water Code,*  
 2 *including without limitation, the authority to fix and establish the*  
 3 *procedure and charges for the sale or other disposal of power*  
 4 *purchased by the department and sold to retail end-use customers*  
 5 *and the authority to recover its revenue requirements.*

6 *SEC. 2. Section 332.2 is added to the Public Utilities Code, to*  
 7 *read:*

8 *332.2. Rates set by the commission that are subject to*  
 9 *subdivision (f) of Section 332.1 shall not result in any retroactive*  
 10 *recovery of undercollections by the San Diego Gas and Electric*  
 11 *Company. Any undercollection resulting from the retroactive rate*  
 12 *reductions ordered pursuant to this chapter, retroactive to*  
 13 *February 7, 2001, shall not result in a revenue undercollection to*  
 14 *San Diego Gas and Electric Company.*

15 *SEC. 3. No reimbursement is required by this act pursuant to*  
 16 *Section 6 of Article XIII B of the California Constitution because*  
 17 *the only costs that may be incurred by a local agency or school*  
 18 *district will be incurred because this act creates a new crime or*  
 19 *infraction, eliminates a crime or infraction, or changes the penalty*  
 20 *for a crime or infraction, within the meaning of Section 17556 of*  
 21 *the Government Code, or changes the definition of a crime within*  
 22 *the meaning of Section 6 of Article XIII B of the California*  
 23 *Constitution.*

24 *SEC. 4. This act is an urgency statute necessary for the*  
 25 *immediate preservation of the public peace, health, or safety*  
 26 *within the meaning of Article IV of the Constitution and shall go*  
 27 *into immediate effect. The facts constituting the necessity are:*

28 *In order to safeguard economic viability of the communities in*  
 29 *the San Diego region, it is necessary that this act take effect*  
 30 *immediately.*

31 ~~amended to read:~~

32 ~~332.1. (a) (1) It is the intent of the Legislature to enact Item~~  
 33 ~~1 (revised) on the commission's August 21, 2000, agenda, entitled~~  
 34 ~~"Opinion Modifying Decision (D.) D.00-06-034 and~~  
 35 ~~D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas~~  
 36 ~~and Electric Company," as modified below.~~

37 ~~(2) It is also the intent of the Legislature that to the extent that~~  
 38 ~~the Federal Energy Regulatory Commission orders refunds to~~  
 39 ~~electrical corporations pursuant to their findings, the commission~~  
 40 ~~shall ensure that any refunds are returned to customers.~~

1 ~~(b) The commission shall establish a ceiling of six and~~  
 2 ~~five tenths cents (\$.065) per kilowatthour on the energy~~  
 3 ~~component of electric bills for residential, small commercial, and~~  
 4 ~~street lighting customers of the San Diego Gas and Electric~~  
 5 ~~Company, through December 31, 2002, retroactive to June 1,~~  
 6 ~~2000. If the commission finds it in the public interest, this ceiling~~  
 7 ~~may be extended through December 2003 and may be adjusted as~~  
 8 ~~provided in subdivision (d).~~

9 ~~(c) The commission shall establish an accounting procedure to~~  
 10 ~~track and recover reasonable and prudent costs of providing~~  
 11 ~~electric energy to retail customers unrecovered through retail bills~~  
 12 ~~due to the application of the ceiling provided for in subdivision (b).~~  
 13 ~~The accounting procedure shall utilize revenues associated with~~  
 14 ~~sales of energy from utility owned or managed generation assets~~  
 15 ~~to offset an undercollection, if undercollection occurs. The~~  
 16 ~~accounting procedure shall be reviewed periodically by the~~  
 17 ~~commission, but not less frequently than semiannually. The~~  
 18 ~~commission may utilize an existing proceeding to perform the~~  
 19 ~~review. The accounting procedure and review shall provide a~~  
 20 ~~reasonable opportunity for San Diego Gas and Electric Company~~  
 21 ~~to recover its reasonable and prudent costs of service over a~~  
 22 ~~reasonable period of time.~~

23 ~~(d) If the commission determines that it is in the public interest~~  
 24 ~~to do so, the commission, after the date of the completion of the~~  
 25 ~~proceeding described in subdivision (g), may adjust the ceiling~~  
 26 ~~from the level specified in subdivision (b), and may adjust the~~  
 27 ~~frozen rate from the levels specified in subdivision (f), consistent~~  
 28 ~~with the Legislature’s intent to provide substantial protections for~~  
 29 ~~customers of the San Diego Gas and Electric Company and their~~  
 30 ~~interest in just and reasonable rates and adequate service.~~

31 ~~(e) For purposes of this section, “small commercial customer”~~  
 32 ~~includes, but is not limited to, all San Diego Gas and Electric~~  
 33 ~~Company accounts on Rate Schedule A of the San Diego Gas and~~  
 34 ~~Electric Company, all accounts of customers who are “general~~  
 35 ~~acute care hospitals,” as defined in Section 1250 of the Health and~~  
 36 ~~Safety Code, all San Diego Gas and Electric Company accounts~~  
 37 ~~of customers who are public or private schools for pupils in~~  
 38 ~~kindergarten or any of grades 1 to 12, inclusive, restaurants,~~  
 39 ~~shopping centers, and all accounts on Rate Schedule AL-TOU~~  
 40 ~~under 100 kilowatts.~~

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1 ~~(f) The commission shall establish an initial frozen rate of six~~  
2 ~~and five tenths cents (\$.065) per kilowatthour on the energy~~  
3 ~~component of electric bills for all customers of the San Diego Gas~~  
4 ~~and Electric Company not subject to subdivision (b), for the time~~  
5 ~~period ending with the end of the rate freeze for the Pacific Gas and~~  
6 ~~Electric Company and the Southern California Edison Company~~  
7 ~~pursuant to Section 368, retroactive to February 7, 2001. The~~  
8 ~~commission shall consider the comparable energy components of~~  
9 ~~rates for comparable customer classes served by the Pacific Gas~~  
10 ~~and Electric Company and the Southern California Edison~~  
11 ~~Company and, if it determines it to be in the public interest, the~~  
12 ~~commission may adjust this frozen rate, and may do so, retroactive~~  
13 ~~to February 7, 2001. The commission shall adjust the California~~  
14 ~~Procurement Adjustment and the Fixed Department of Water~~  
15 ~~Resources Set Aside determined pursuant to Section 360.5 for~~  
16 ~~customers subject to this subdivision to reflect a retail rate~~  
17 ~~consistent with the rate for the energy component of electric bills~~  
18 ~~as determined in this subdivision, in place of the retail rate in effect~~  
19 ~~on January 5, 2001. This section shall be construed to modify the~~  
20 ~~payment provisions, but may not be construed to modify the~~  
21 ~~electric procurement obligations of the Department of Water~~  
22 ~~Resources, pursuant to any contract or agreement in accordance~~  
23 ~~with Division 27 (commencing with Section 80000) of the Water~~  
24 ~~Code, and in effect as of February 7, 2001, between the~~  
25 ~~Department of Water Resources and San Diego Gas and Electric~~  
26 ~~Company.~~

27 ~~(g) The commission shall institute a proceeding to examine the~~  
28 ~~prudence and reasonableness of the San Diego Gas and Electric~~  
29 ~~Company in the procurement of wholesale energy on behalf of its~~  
30 ~~customers, for a period beginning at the latest on June 1, 2000. If~~  
31 ~~the commission finds that San Diego Gas and Electric Company~~  
32 ~~acted imprudently or unreasonably, the commission shall issue~~  
33 ~~orders that it determines to be appropriate affecting the retail rates~~  
34 ~~of San Diego Gas and Electric Company customers including, but~~  
35 ~~not limited to, refunds.~~

36 ~~SEC. 2. Section 80134 of the Water Code is amended to read:~~  
37 ~~80134. (a) The department shall, and in any obligation~~  
38 ~~entered into pursuant to this division may covenant to, at least~~  
39 ~~annually, and more frequently as required, establish and revise~~



1 revenue requirements sufficient, together with any moneys on  
2 deposit in the fund, to provide all of the following:

3 (1) The amounts necessary to pay the principal of and  
4 premium, if any, and interest on all bonds as and when the same  
5 shall become due.

6 (2) The amounts necessary to pay for power purchased by it and  
7 to deliver it to purchasers, including the cost of electric power and  
8 transmission, scheduling, and other related expenses incurred by  
9 the department, or to make payments under any other contracts,  
10 agreements, or obligations entered into by it pursuant hereto, in the  
11 amounts and at the times the same shall become due.

12 (3) Reserves in such amount as may be determined by the  
13 department from time to time to be necessary or desirable.

14 (4) The pooled money investment rate on funds advanced for  
15 electric power purchases prior to the receipt of payment for those  
16 purchases by the purchasing entity.

17 (5) Repayment to the General Fund of appropriations made to  
18 the fund pursuant hereto or hereafter for purposes of this division;  
19 appropriations made to the Department of Water Resources  
20 Electric Power Fund, and General Fund moneys expended by the  
21 department pursuant to the Governor's Emergency Proclamation  
22 dated January 17, 2001.

23 (6) The amounts necessary to reimburse the department for any  
24 underecollection of the department's acquisition costs, plus other  
25 costs as provided in Section 80200, pursuant to the rate  
26 requirements imposed by Section 332.1 of the Public Utilities  
27 Code.

28 (7) The administrative costs of the department incurred in  
29 administering this division.

30 (b) The department shall notify the commission of its revenue  
31 requirement pursuant to Section 80110.

32 SEC. 3.—No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within  
39 the meaning of Section 6 of Article XIII B of the California  
40 Constitution.

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1 ~~SEC. 4. This act is an urgency statute necessary for the~~  
2 ~~immediate preservation of the public peace, health, or safety~~  
3 ~~within the meaning of Article IV of the Constitution and shall go~~  
4 ~~into immediate effect. The facts constituting the necessity are:~~

5 ~~In order to mitigate the high energy costs for large consumers~~  
6 ~~such as schools and businesses, due to the energy situation of 2001,~~  
7 ~~it is necessary that this act take effect immediately.~~

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