

Senate Bill No. 43

CHAPTER 5

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

[Approved by Governor April 6, 2001. Filed with
Secretary of State April 9, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 43, Alpert. 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 ceiling of \$0.065 per kilowatthour on the energy component of electric bills for 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 related 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) 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.

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

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

SECTION 1. Section 332.1 of the Public Utilities Code is amended to read:

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

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

(b) The commission shall establish a ceiling of six and five-tenths cents (\$0.065) per kilowatt hour on the energy component of electric bills for 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. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

(c) The commission shall establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the ceiling provided for in subdivision (b). The accounting procedure shall utilize revenues associated with sales of energy from utility-owned



or managed generation assets to offset an undercollection, if undercollection occurs. The accounting procedure shall be reviewed periodically by the commission, but not less frequently than semiannually. The commission may utilize an existing proceeding to perform the review. The accounting procedure and review shall provide a reasonable opportunity for San Diego Gas and Electric Company to recover its reasonable and prudent costs of service over a reasonable period of time.

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

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

(f) The commission shall establish an initial frozen rate of six and five-tenths cents (\$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 subdivision (b), for the time period ending with the end of the rate freeze for the Pacific Gas and Electric Company and the Southern California Edison Company pursuant to Section 368, retroactive to February 7, 2001. The commission shall consider the comparable energy components of rates for comparable customer classes served by the Pacific Gas and Electric Company and the Southern California Edison Company and, if it determines it to be in the public interest, the commission may adjust this frozen rate, and may do so, retroactive to the date that rate increases took effect for customers of Pacific Gas and Electric Company and Southern California Edison Company pursuant to the commission's March 27, 2001, decision. The commission shall adjust the California Procurement Adjustment and the Fixed Department of Water Resources Set-Aside determined pursuant to Section 360.5 for customers subject to this section to reflect a retail rate consistent with the rate for the energy



component of electric bills as determined in this subdivision, in place of the retail rate in effect on January 5, 2001. This section shall be construed to modify the payment provisions, but may not be construed to modify the electric procurement obligations of the Department of Water Resources, pursuant to any contract or agreement in accordance with Division 27 (commencing with Section 80000) of the Water Code, and in effect as of February 7, 2001, between the Department of Water Resources and San Diego Gas and Electric Company.

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

(h) Nothing in this section shall be construed to limit the authority of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code, including without limitation, the authority to fix and establish the procedure and charges for the sale or other disposal of power purchased by the department and sold to retail end-use customers and the authority to recover its revenue requirements.

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

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

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

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



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

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