

AMENDED IN ASSEMBLY JUNE 19, 2002

AMENDED IN SENATE MAY 28, 2002

AMENDED IN SENATE MAY 20, 2002

AMENDED IN SENATE MAY 1, 2002

AMENDED IN SENATE APRIL 17, 2002

SENATE BILL

No. 1876

**Introduced by Senator Bowen
(Coauthors: Senators Sher and Speier)**

February 22, 2002

An act to amend Sections 348, 352, 367, 371, 372, and 377 of, to amend and renumber Section 454.1 of, to add Sections 341.5, 367.5, 761.7, and 858 to, to repeal Sections 330, 338, 340, 341.1, 341.5, 346, 367.7, 368, 369, 370, ~~371~~, 373, 376, 378, and 397 of, to repeal Article 5 (commencing with Section 359) of Chapter 2.3 of Part 1 of, and to repeal and add Section 350 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1876, as amended, Bowen. Electrical restructuring.

(1) The existing restructuring of the electrical services industry within the Public Utilities Act provides for the establishment of an Independent System Operator and a Power Exchange as separately incorporated public benefit nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the Independent System Operator and the Power Exchange in order to ensure the success of the electrical industry restructuring and to ensure

a reliable supply of electricity in the transition to a new market structure. The Oversight Board is granted various powers including, but not limited to, requiring the revision of the bylaws of the Independent System Operator.

This bill would repeal those provisions ~~establishing, and~~ granting powers to; the Oversight Board over the composition of the governing board by the Power Exchange and the incorporation of the Independent System Operator and the Power Exchange. The bill would require the Independent System Operator to revise its own bylaws. Because any violation of the Public Utilities Act is a crime, the bill, by establishing new duties for the Independent System Operator, would impose a state-mandated local program by changing the definition of a crime.

(2) The existing restructuring requires the Public Utilities Commission to establish an effective mechanism that ensures recovery, by electrical corporations, of certain transition costs from their customers, as determined by the commission, including costs for generation related assets and obligations, that were being collected in commission-approved rates on December 20, 1995, that may become uneconomic as a result of a competitive generation market. The restructuring provides the calculation mechanism on which these costs are to be based and requires that these costs be limited in the case of utility-owned fossil generation. ~~The restructuring requires the costs to be allocated among various classes of customers, rate schedules, and tariff options and requires that there be a firewall segregating the recovery of the costs of competition transition charge exemptions between certain customers.~~

This bill would *delete the provision that includes costs for generation-related assets and obligations that were being collected in commission-approved rates on December 20, 1995, from the transition costs that may be recovered by electrical corporations. The bill would delete the provisions providing for a certain calculation mechanism; and the provisions limiting the recovery of costs in the case of utility-owned fossil generation; and the provisions requiring a firewall to segregate the recovery of certain costs.*

(3) The existing restructuring requires each electrical corporation to propose a cost recovery plan for the recovery of the uneconomic costs. The restructuring authorizes electrical corporations to apply to the commission for an order determining that the uneconomic costs not be collected from a particular class of customer or category of electricity consumption. The restructuring also authorizes electrical



corporations to recover utility generation related plant and regulatory assets to the extent that they remain unrecovered after December 31, 2001, due to the electrical corporations' ability to recover costs related to the implementation of direct access, the Power Exchange, and the Independent System Operator. The restructuring also requires the commission to authorize new optional rate schedules and tariffs, including new service offerings, that accurately reflect the loads, locations, conditions of service, cost of service, and market opportunities of customer classes and subclasses.

This bill would delete these provisions.

(4) The existing restructuring requires the commission to ensure that public utility generation assets remain dedicated to service for the benefit of California ratepayers.

This bill would recast this provision to require the commission to ensure that utility retained generation remain dedicated to service for the benefit of California ratepayers and would define "utility retained generation" as utility owned generation, qualifying facility contracts, and other bilateral ~~contracts entered into prior to January 17, 2001~~ *electricity contracts entered into by an electrical corporation as authorized by the commission*. The bill would exempt the transfer or sale of generation plants that are located outside the state and are owned exclusively by companies not based in the state from these provisions. The bill would require the commission to establish rates designed to provide the public utility electrical corporation with a reasonable opportunity to recover the reasonable costs of producing power and ancillary service from utility retained generation dedicated to the service of bundled service customers, operating and capital costs, as defined, and a reasonable return of and on the electrical corporation's depreciated book cost of investments in retained generation assets, as defined.

(5) The existing restructuring requires the commission to authorize an electrical corporation that is also a gas corporation and served fewer than four million customers as of December 20, 1995, to implement a rate cap mechanism that reflects price changes in the fuel market under certain circumstances.

This bill would delete these provisions.

(6) Under existing law, the Public Utilities Act, the commission is authorized to supervise and regulate every public utility in the state and to take all actions that are necessary and convenient in the exercise of that power and jurisdiction. The act also establishes the California



Consumer Power and Conservation Financing Authority to finance generating facilities and other energy related projects and programs.

This bill would grant the commission jurisdiction over any corporation or holding company, as defined, that owns, controls, operates or manages a public utility, for the limited purpose of monitoring and enforcing ~~any promises, commitments, conditions, or written representations made to the commission or to the ratepayers of the public utility~~ *conditions as contained in specified commission decisions.*

This bill would require that any gain or loss on sale associated with the sale, transfer, or disposition of assets be allocated exclusively to the ratepayers serviced by the electrical corporation. Since a violation of the act is a crime under existing provisions of law, the bill would impose a state-mandated local program by expanding the definition of a crime.

This bill would establish a Ratepayer Refund Account for each electrical corporation and would require that all refunds recovered by an electrical corporation resulting from any litigation or agreement relative to the charging of excessive costs for wholesale power by electric power generators and suppliers that have been recovered, or are recoverable, from ratepayers in commission-approved rates be credited to the electrical corporation's account and would provide that those funds be held in trust on behalf of the ratepayers.

(7) This bill would declare that its provisions are severable.

(8) 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 330 of the Public Utilities Code is
- 2 repealed.
- 3 SEC. 2. Section 338 of the Public Utilities Code is repealed.
- 4 SEC. 3. Section 340 of the Public Utilities Code is repealed.
- 5 SEC. 4. Section 341.1 of the Public Utilities Code is repealed.
- 6 SEC. 5. Section 341.5 of the Public Utilities Code is repealed.

SEC. 6. Section 341.5 is added to the Public Utilities Code, to read:

341.5. The Independent System Operator bylaws shall contain provisions that identify matters within state jurisdiction. The bylaws shall also contain provisions that state that the approval function of California's bylaws with respect to the matters within state jurisdiction do not preclude the Federal Energy Regulatory Commission from taking any action necessary to address undue discrimination or other violations of the Federal Power Act (16 U.S.C. Sec. 791a et seq.) or to exercise any other commission responsibility under the Federal Power Act. In taking any action, the Federal Energy Regulatory Commission shall give due respect to California's jurisdictional interests in the functions of the Independent System Operator, and shall attempt to accommodate state interests to the extent those interests are not inconsistent with the Federal Energy Regulatory Commission's statutory responsibilities. The bylaws shall state that any future agreement regarding the apportionment of the Independent System Operator board appointment function among participating states associated with the expansion of the Independent System Operator into a multistate entity shall be filed with the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act (16 U.S.C. Sec. 824d).

SEC. 7. Section 346 of the Public Utilities Code is repealed.

SEC. 8. Section 348 of the Public Utilities Code is amended to read:

348. The Independent System Operator shall adopt inspection, maintenance, repair, and replacement standards for the transmission facilities under its control no later than September 30, 1997. The standards, which shall be performance or prescriptive standards, or both, as appropriate, for each substantial type of transmission equipment or facility, shall provide for high quality, safe, and reliable service. In adopting its standards, the Independent System Operator shall consider: cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The Independent System Operator shall also adopt standards for reliability, and safety during periods of emergency and disaster. The Independent System Operator shall require each transmission facility owner or operator to report annually on its compliance

1 with the standards. That report shall be made available to the
2 public.

3 SEC. 9. Section 350 of the Public Utilities Code is repealed.

4 SEC. 10. Section 350 is added to the Public Utilities Code, to
5 read:

6 350. (a) It is the intent of the Legislature to provide for the
7 development of regional electricity transmission markets in the
8 western states and to improve the access of consumers served by
9 the Independent System Operator to those markets.

10 (b) The preferred means by which the voluntary evolution
11 described in subdivision (a) should occur is through the adoption
12 of a regional compact or other comparable agreement among
13 cooperating party states, the retail customers of which states would
14 reside within the geographic territories served by the Independent
15 System Operator.

16 (c) The agreement described in subdivision (b) should provide
17 for all of the following:

18 (1) An equitable process for the appointment or confirmation
19 by party states of members of the governing boards of the
20 Independent System Operator.

21 (2) A respecification of the size, structure, representation,
22 eligible membership, nominating procedures, and member terms
23 of service of the governing boards of the Independent System
24 Operator.

25 (3) Mechanisms by which each party state, jointly or
26 separately, can oversee effectively the actions of the Independent
27 System Operator as those actions relate to ensuring electricity
28 system reliability within the party state and to matters that affect
29 electricity sales to the retail customers of the party state or
30 otherwise affect the general welfare of the electricity consumers
31 and the general public of the party state.

32 (4) The adherence by publicly owned and investor-owned
33 utilities located in party states to enforceable standards and
34 protocols to protect the reliability of the interconnected regional
35 transmission and distribution systems.

36 SEC. 10.5. Section 352 of the Public Utilities Code is
37 amended to read:

38 352. The Independent System Operator may not enter into a
39 multistate entity or a regional organization as authorized in Section
40 350 unless that entry is approved by the Oversight Board.

SEC. 11. Article 5 (commencing with Section 359), of Chapter 2.3 of Part 1 of the Public Utilities Code is repealed.

SEC. 12. Section 367 of the Public Utilities Code is amended to read:

367. (a) The commission shall identify and determine those costs and categories of costs for generation-related assets and ~~obligations, consisting of generation facilities, generation-related regulatory assets, nuclear settlements, and power purchase contracts, including, but not limited to, restructurings, renegotiations or terminations thereof approved by the commission, that were being collected in commission-approved rates on December 20, 1995, and that may become uneconomic as obligations that may become uneconomic as~~ a result of a competitive generation market, in that these costs may ~~not be recoverable in market prices in a competitive market, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that these additions are necessary to maintain the facilities through December 31, 2001. These uneconomic costs not be recoverable in market prices. These uneconomic costs~~ shall include transition costs as defined in subdivision (f) of Section 840, and shall be recovered from all customers or in the case of fixed transition amounts, from the customers specified in subdivision (a) of Section 841, on a nonbypassable basis and shall ~~be amortized over a reasonable time period, including collection on an accelerated basis, consistent with not increasing rates for any rate schedule, contract, or tariff option above the levels in effect on June 10, 1996; provided that, the recovery shall not extend be amortized over a reasonable time period. Recovery shall not extend beyond December 31, 2001, except as follows:~~

~~(a)–~~

(1) Costs associated with employee-related transition costs as set forth in subdivision (b) of Section 375 shall continue until fully collected; provided, however, that the cost collection shall not extend beyond December 31, 2006.

~~(b)–~~

(2) Power purchase contract obligations shall continue for the duration of the contract. Costs associated with any buy-out, buy-down, or renegotiation of the contracts shall continue to be

1 collected for the duration of any agreement governing the buy-out,
2 buy-down, or renegotiated contract; provided, however, no power
3 purchase contract shall be extended as a result of the buy-out,
4 buy-down, or renegotiation.

5 ~~(e)—~~

6 (3) Nuclear incremental cost incentive plans for the San Onofre
7 nuclear generating station shall continue for the full term as
8 authorized by the commission in Decision 96-01-011 and Decision
9 96-04-059; provided that the recovery shall not extend beyond
10 December 31, 2003. This subdivision shall become inoperative on
11 January 1, 2004.

12 ~~(d)—~~

13 @@@@ (4) Fixed transition amounts, as defined in
14 subdivision (d) of Section 840, may be recovered from the
15 customers specified in subdivision (a) of Section 841 until all rate
16 reduction bonds associated with the fixed transition amounts have
17 been paid in full by the financing entity.

18 (b) (1) *The commission shall allocate the uneconomic costs*
19 *described in subdivision (a) among the various classes of*
20 *customers, rate schedules, and tariff options to ensure that costs*
21 *are recovered from these classes, rate schedules, contract rates,*
22 *and tariff options, including self-generation deferral,*
23 *interruptible, and standby rate options in substantially the same*
24 *proportion as similar costs are recovered as of June 10, 1996,*
25 *through the regulated retail rates of the relevant electric utility.*
26 *There shall be a firewall segregating the recovery of the costs of*
27 *competition transition charge exemptions so that the costs of*
28 *competition transition charge exemptions granted to members of*
29 *the combined class of residential and small commercial customers*
30 *shall be recovered only from these customers, and the costs of*
31 *competition transition charge exemptions granted to members of*
32 *the combined class of customers, other than residential and small*
33 *commercial customers, shall be recovered only from these*
34 *customers.*

35 (2) *The commission shall retain existing cost allocation*
36 *authority so long as the firewall and rate freeze principles are not*
37 *violated.*

38 SEC. 13. Section 367.5 is added to the Public Utilities Code,
39 to read:

1 367.5. (a) The commission shall establish a Ratepayer
2 Refund Account for each electrical corporation. All refunds
3 recovered by an electrical corporation, either directly or indirectly
4 by way of offset against amounts otherwise owed by the electrical
5 corporation, resulting from any litigation or agreement relative to
6 the charging of excessive costs for wholesale power by electric
7 power generators and suppliers that have been recovered, or are
8 recoverable, from ratepayers in commission-approved rates, shall
9 be credited to the electrical corporation's account.

10 (b) All funds held by an electrical corporation that are required
11 by this section to be credited to the Ratepayer Refund Account of
12 the corporation are property of the ratepayers and shall be held in
13 trust on their behalf.

14 SEC. 14. Section 367.7 of the Public Utilities Code is
15 repealed.

16 SEC. 15. Section 368 of the Public Utilities Code is repealed.

17 SEC. 16. Section 369 of the Public Utilities Code is repealed.

18 SEC. 17. Section 370 of the Public Utilities Code is repealed.

19 SEC. 18. Section 371 of the Public Utilities Code is ~~repealed~~.
20 *amended to read:*

21 371. (a) Except as provided in Sections 372 and 374, the
22 uneconomic costs provided in Sections 367, ~~368~~, and 375, ~~and 376~~
23 shall be applied to each customer based on the amount of
24 electricity purchased by the customer from an electrical
25 corporation or alternate supplier of electricity, subject to changes
26 in usage occurring in the normal course of business.

27 (b) Changes in usage occurring in the normal course of
28 business are those resulting from changes in business cycles,
29 termination of operations, departure from the utility service
30 territory, weather, reduced production, modifications to
31 production equipment or operations, changes in production or
32 manufacturing processes, fuel switching, including installation of
33 fuel cells pending a contrary determination by the California
34 Energy Resources Conservation and Development Commission in
35 Section 383, enhancement or increased efficiency of equipment or
36 performance of existing self-cogeneration equipment,
37 replacement of existing cogeneration equipment with new power
38 generation equipment of similar size as described in paragraph (1)
39 of subdivision (a) of Section 372, installation of demand-side

1 management equipment or facilities, energy conservation efforts,
2 or other similar factors.

3 (c) Nothing in this section shall be interpreted to exempt or alter
4 the obligation of a customer to comply with Chapter 5
5 (commencing with Section 119075) of Part 15 of Division 104 of
6 the Health and Safety Code. Nothing in this section shall be
7 construed as a limitation on the ability of residential customers to
8 alter their pattern of electricity purchases by activities on the
9 customer side of the meter.

10 SEC. 19. Section 372 of the Public Utilities Code is amended
11 to read:

12 372. (a) It is the policy of the state to encourage and support
13 the development of cogeneration as an efficient, environmentally
14 beneficial, competitive energy resource that will enhance the
15 reliability of local generation supply, and promote local business
16 growth. Subject to the specific conditions provided in this section,
17 the commission shall determine the applicability to customers of
18 uneconomic costs as specified in Sections 367 and 375. Consistent
19 with this state policy, the commission shall provide that these costs
20 shall not apply to any of the following:

21 (1) To load served onsite or under an over-the-fence
22 arrangement by a nonmobile self-cogeneration or cogeneration
23 facility that was operational on or before December 20, 1995, or
24 by increases in the capacity of the facility to the extent that the
25 increased capacity was constructed by an entity holding an
26 ownership interest in or operating the facility and does not exceed
27 120 percent of the installed capacity as of December 20, 1995,
28 provided that prior to June 30, 2000, the costs shall apply to
29 over-the-fence arrangements entered into after December 20,
30 1995, between unaffiliated parties. For the purposes of this
31 subdivision, “affiliated” means any person or entity that directly,
32 or indirectly through one or more intermediaries, controls, is
33 controlled by, or is under common control with another specified
34 entity. “Control” means either of the following:

35 (A) The possession, directly or indirectly, of the power to direct
36 or to cause the direction of the management or policies of a person
37 or entity, whether through an ownership, beneficial, contractual,
38 or equitable interest.



1 (B) Direct or indirect ownership of at least 25 percent of an
2 entity, whether through an ownership, beneficial or equitable
3 interest.

4 (2) To load served by onsite or under an over-the-fence
5 arrangement by a nonmobile self-cogeneration or cogeneration
6 facility for which the customer was committed to construction as
7 of December 20, 1995, provided that the facility was substantially
8 operational on or before January 1, 1998, or by increases in the
9 capacity of the facility to the extent that the increased capacity was
10 constructed by an entity holding an ownership interest in or
11 operating the facility and does not exceed 120 percent of the
12 installed capacity as of January 1, 1998, provided that prior to June
13 30, 2000, the costs shall apply to over-the-fence arrangements
14 entered into after December 20, 1995, between unaffiliated
15 parties.

16 (3) To load served by existing, new, or portable emergency
17 generation equipment used to serve the customer's load
18 requirements during periods when utility service is unavailable,
19 provided the emergency generation is not operated in parallel with
20 the integrated electric grid, except on a momentary parallel basis.

21 (4) After June 30, 2000, to any load served onsite or under an
22 over-the-fence arrangement by any nonmobile self-cogeneration
23 or cogeneration facility.

24 (b) Further, consistent with state policy, with respect to
25 self-cogeneration or cogeneration deferral agreements, the
26 commission shall do the following:

27 (1) Provide that a utility shall execute a final self-cogeneration
28 or cogeneration deferral agreement with any customer that, on or
29 before December 20, 1995, had executed a letter of intent (or
30 similar documentation) to enter into the agreement with the utility,
31 provided that the final agreement shall be consistent with the terms
32 and conditions set forth in the letter of intent and the commission
33 shall review and approve the final agreement.

34 (2) Provide that a customer that holds a self-cogeneration or
35 cogeneration deferral agreement that was in place on or before
36 December 20, 1995, or that was executed pursuant to paragraph (1)
37 in the event the agreement expires, or is terminated, may do any
38 of the following:

39 (A) Continue through December 31, 2001, to receive utility
40 service at the rate and under terms and conditions applicable to the

1 customer under the deferral agreement that, as executed, includes
2 an allocation of uneconomic costs.

3 (B) Engage in a direct transaction for the purchase of electricity
4 and pay uneconomic costs consistent with Sections 367 and 375.

5 (C) Construct a self-cogeneration or cogeneration facility of
6 approximately the same capacity as the facility previously
7 deferred unless otherwise authorized by the commission pursuant
8 to subdivision (c).

9 (3) ~~Provide~~ *Subject to the firewall described in subdivision (b)*
10 *of Section 367, provide* that the ratemaking treatment for
11 self-cogeneration or cogeneration deferral agreements executed
12 prior to December 20, 1995, or executed pursuant to paragraph (1)
13 shall be consistent with the ratemaking treatment for the contracts
14 approved before January 1, 1995.

15 (c) The commission shall authorize, within 60 days of the
16 receipt of a joint application from the serving utility and one or
17 more interested parties, applicability conditions as follows:

18 (1) The costs identified in Sections 367 and 375 shall not, prior
19 to June 30, 2000, apply to load served onsite by a nonmobile
20 self-cogeneration or cogeneration facility that became operational
21 on or after December 20, 1995.

22 (2) The costs identified in Sections 367 and 375 shall not, prior
23 to June 30, 2000, apply to any load served under over-the-fence
24 arrangements entered into after December 20, 1995, between
25 unaffiliated entities.

26 (d) For the purposes of this subdivision, all onsite or
27 over-the-fence arrangements shall be consistent with Section 218
28 as it existed on December 20, 1995.

29 (e) To facilitate the development of new microcogeneration
30 applications, electrical corporations may apply to the commission
31 for a financing order to finance the transition costs to be recovered
32 from customers employing the applications.

33 (f) To encourage the continued development, installation, and
34 interconnection of clean and efficient self-generation and
35 cogeneration resources, to improve system reliability for
36 consumers by retaining existing generation and encouraging new
37 generation to connect to the electric grid, and to increase
38 self-sufficiency of consumers of electricity through the
39 deployment of self-generation and cogeneration, both of the
40 following shall occur:

(1) The commission shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

(2) If the commission finds that any policy or action of the Independent System Operator unreasonably discourages, the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid, the commission shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

SEC. 20. Section 373 of the Public Utilities Code is repealed.

SEC. 21. Section 376 of the Public Utilities Code is repealed.

SEC. 22. Section 377 of the Public Utilities Code is amended to read:

377. (a) The commission shall continue to regulate the facilities for the generation of electricity owned by any public utility prior to January 1, 1997, that are subject to commission regulation until the owner of those facilities has applied to the commission to dispose of those facilities and has been authorized by the commission under Section 851 to undertake that disposal. Notwithstanding any other provision of law, no facility for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2006. The commission shall ensure that utility retained generation remain dedicated for the benefit of the public utility's bundled service customers. Nothing in this section may be construed to compel any electrical corporation to renew or renegotiate an expiring contract. For purposes of this section, "utility retained generation" means utility-owned generation, qualifying facility contracts, and other bilateral ~~contracts entered into prior to January 17, 2001.~~ *electricity contracts entered into by the electrical corporation as authorized by the commission. The definition of utility-retained generation, as provided in this section, is not intended to predetermine the outcome of any civil or regulatory proceeding pending on the date of enactment of the act adding this sentence involving bilateral electricity contracts entered into by the San Diego Gas and Electric Company.* This section does not apply to the transfer or sale of generation plants that are located outside the state and are owned exclusively by companies not based in the state.

(b) The commission shall establish rates designed to provide the public utility electrical corporation with a reasonable opportunity to recover the reasonable costs of producing power and ancillary services from utility retained generation assets dedicated to the service of bundled service customers. The rates shall provide a reasonable opportunity for the public utility electrical corporation to recover reasonable operating costs and capital costs, including a reasonable return of and on the public utility electrical corporation's depreciated book cost of investments in utility retained generation assets.

(c) "Operating costs" include all customary categories of operating costs, consistent with historical regulatory practices, including any costs charged by the Independent System Operator to the electrical corporation as the generator or scheduling coordinator of the power.

(d) "The electrical corporation's depreciated book cost of investment in utility retained generation assets" shall initially be set at the amounts recorded on its books of account as of December 31, 2001, as verified and approved by the commission. The cost of major capital additions and improvements to a public utility's retained generation assets shall be reviewed and approved by the commission, in the manner set forth in Sections 1005 and 1005.5, in advance of the public utility being allowed to invest in major capital additions or improvements.

(e) The commission shall continue to determine the appropriate means for recovery of decommissioning costs.

SEC. 23. Section 378 of the Public Utilities Code is repealed.

SEC. 24. Section 397 of the Public Utilities Code is repealed.

SEC. 25. Section 454.1 of the Public Utilities Code, as added by Section 6 of Chapter 1040 of the Statutes of 2000, is amended and renumbered to read:

~~454.5.—~~

454.6. (a) Reasonable expenditures by transmission owners that are electrical corporations to plan, design, and engineer reconfiguration, replacement, or expansion of transmission facilities are in the public interest and are deemed prudent if made for the purpose of facilitating competition in electric generation markets, ensuring open access and comparable service, or maintaining or enhancing reliability, whether or not these

1 expenditures are for transmission facilities that become
2 operational.

3 (b) The commission shall facilitate the efforts of the state's
4 transmission owning electrical corporations to obtain
5 authorization from the Federal Energy Regulatory Commission to
6 recover reasonable expenditures made for the purposes stated in
7 subdivision (a).

8 (c) Nothing in this section alters or affects the recovery of the
9 reasonable costs of other electric facilities in rates pursuant to the
10 commission's existing ratemaking authority under this code or
11 pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs.
12 791a, et seq.). The commission may periodically review and adjust
13 depreciation schedules and rates authorized for an electric plant
14 that is under the jurisdiction of the commission and owned by
15 electrical corporations and periodically review and adjust
16 depreciation schedules and rates authorized for a gas plant that is
17 under the jurisdiction of the commission and owned by gas
18 corporations, consistent with this code.

19 SEC. 26. Section 761.7 is added to the Public Utilities Code,
20 to read:

21 761.7. Any electrical corporation or holding company, as
22 defined in Section 79b(a)(7)(A) of Title 15 of the United States
23 Code, that owns, controls, operates, or manages a public utility
24 shall be subject to the jurisdiction, control, and regulation of the
25 commission for the limited purpose of monitoring and enforcing
26 ~~any promises, commitments, conditions, or written~~
27 ~~representations made to the commission or to the ratepayers of the~~
28 ~~public utility.~~ *conditions in commission Decisions D.88-01-063,*
29 *D.96-11-017, D.99-04-068, D.95-05-021, D.95-12-018, and*
30 *D.98-03-073.*

31 SEC. 27. Section 858 is added to the Public Utilities Code, to
32 read:

33 858. Any gain or loss on sale associated with the sale, transfer,
34 or disposition of assets that have been included in the rate base of
35 an electrical corporation shall be allocated exclusively to the
36 ratepayers served by the electrical corporation. Gain or loss on sale
37 shall be calculated as the difference between the transfer or sale
38 price and the net depreciated book value of the assets at the time
39 of the transfer.

1 SEC. 28. The provisions of this act are severable. If any
2 provision of this act or its application is held invalid, that invalidity
3 shall not affect other provisions or applications that can be given
4 effect without the invalid provision or application.

5 SEC. 29. No reimbursement is required by this act pursuant
6 to Section 6 of Article XIII B of the California Constitution
7 because the only costs that may be incurred by a local agency or
8 school district will be incurred because this act creates a new crime
9 or infraction, eliminates a crime or infraction, or changes the
10 penalty for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition of a
12 crime within the meaning of Section 6 of Article XIII B of the
13 California Constitution.

