

ASSEMBLY BILL

No. 428

Introduced by Assembly Member Richman

February 14, 2003

An act to add Section 367.6 to the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 428, as introduced, Richman. Electrical corporations: core supply portfolio: core bundled customers.

(1) Under existing law, the Public Utilities Commission regulates electrical corporations. The Public Utilities Act requires the commission to authorize direct transactions between electricity suppliers and end use customers. However, other existing law suspends the right of retail end use customers to acquire direct access service from certain electricity suppliers after a period of time to be determined by the commission until the Department of Water Resources no longer supplies electricity under a certain provision of law.

This bill would delete that suspension.

The bill would require the commission, on or before January 1, 2006, to adopt guidelines for the appropriate composition of a core portfolio of electricity supplies to be established by each electrical corporation to meet the needs of the electrical corporation's bundled core customers, as defined, and provide an adequate reserve capacity. Under the bill, commencing January 1, 2006, an electric corporation would have no obligation to serve a noncore customer, as defined, except by contract for a term of no less than 3 years and on terms approved by the commission that reimburse the electrical corporation for all costs of providing electrical service. Commencing on that date, noncore

customers would be served either by direct transactions or by contract with an electrical corporation. The bill would require the commission, on or before January 1, 2006, to adopt rules to allow residential bundled core customers to elect to be served by direct transactions in a manner that fully accounts for their cost of service by the electrical corporation and payments for a proportionate share of system costs, bond payments, and public benefits charges. The bill would require the commission to adopt corresponding rules for nonresidential bundled core customers on or before January 1, 2012. Because a violation of a rule or order of the commission is a crime, this bill would create a new crime, thereby imposing a state-mandated local program.

(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.

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. It is the intent of the Legislature to provide for
2 the construction of electric generation capacity to meet the needs
3 of a growing state and replace this state’s most polluting and
4 inefficient generation plants by phasing in a retail market for the
5 largest, most financially stable customers.

6 SEC. 2. Section 367.6 is added to the Public Utilities Code, to
7 read:

8 367.6. (a) As used in this section, the following terms have
9 the following meanings:

10 (1) “Bundled core customers” include all customers with a
11 maximum peak demand of less than 500 kilowatts, or a maximum
12 peak demand as determined by the commission pursuant to
13 subdivision (b), who are not being served, or who elect not to be
14 served, through direct transactions.

15 (2) “Noncore customers” include all customers with a
16 maximum peak demand of 500 kilowatts or greater, or a maximum
17 peak demand as determined by the commission pursuant to
18 subdivision (b).



1 (b) Commencing January 1, 2008, and every two years
2 thereafter, the commission shall reduce the maximum peak
3 demand threshold by an amount sufficient to convert the bundled
4 core customers with the largest peak demand prior to reduction of
5 the threshold to noncore customers, who shall contract for
6 electricity service from third parties or an electric corporation to
7 meet all growth in electricity demand forecasted by the State
8 Energy Resources Conservation and Development Commission
9 during the following five-year period and any reduction in the
10 aggregate supply of electricity provided by Department of Water
11 Resources contracts pursuant to Division 27 (commencing with
12 Section 80000) of the Water Code. The commission may not lower
13 the threshold beyond 100 kilowatts maximum peak demand.

14 (c) On or before January 1, 2006, the commission shall adopt
15 guidelines for the appropriate composition of a core portfolio of
16 electricity supplies to be established by each electrical corporation
17 to meet the needs of the electrical corporation's bundled core
18 customers and provide an adequate reserve capacity. The
19 commission shall include a minimum renewable energy
20 component and demand-side management programs, including,
21 but not limited to, time-of-use rates and reserve requirements
22 established by the State Energy Resources Conservation and
23 Development Commission.

24 (d) (1) The core supply portfolio shall also include the
25 following components:

26 (A) Output of the generation assets retained by the electrical
27 corporation under commission regulation.

28 (B) The total amount of Department of Water Resources
29 contract electricity purchased to supply bundled customers.

30 (C) Other supplies purchased by the electrical corporation
31 under contracts to serve the needs of its core customers.

32 (D) Any spot market supplies required to provide for core
33 demand.

34 (2) The commission shall ensure that noncore customers are
35 responsible for an appropriate amount of the costs of the
36 Department of Water Resources contracts to the extent those costs
37 exceed the average cost of the remaining supply components of the
38 core supply portfolio.

39 (e) Commencing January 1, 2006, an electric corporation has
40 no obligation to serve any noncore customer except by contract for



1 a term of not less than three years and on terms approved by the
2 commission that reimburse the electrical corporation for all costs
3 of providing electrical service.

4 (f) Commencing January 1, 2006, noncore customers may not
5 be served from the core portfolio. Noncore customers shall be
6 served by direct transactions, as described in Section 365, or by
7 contract with an electrical corporation as described in subdivision
8 (e). Customers may aggregate their load at multiple locations in
9 order to be classified as noncore customers. Any noncore customer
10 who elects to remain with, or return to, service from its electrical
11 corporation rather than engage in direct transactions shall provide
12 the electrical corporation at least 18 months' advance written
13 notice of that election.

14 (g) (1) On or before January 1, 2006, the commission shall
15 adopt rules to allow residential bundled core customers to elect to
16 be served by direct transactions in a manner that fully accounts for
17 their cost of service by the electrical corporation and payments for
18 a proportionate share of system costs, bond payments, and public
19 benefits charges.

20 (2) On or before January 1, 2012, the commission shall adopt
21 rules to allow nonresidential bundled core customers to elect to be
22 served by direct transactions in a manner that fully accounts for
23 their cost of service by the electrical corporation and payments for
24 a proportionate share of system costs, bond payments, and public
25 benefits charges.

26 SEC. 3. Section 80110 of the Water Code is amended to read:
27 80110. The department shall retain title to all power sold by
28 it to the retail end use customers. The department shall be entitled
29 to recover, as a revenue requirement, amounts and at the times
30 necessary to enable it to comply with Section 80134, and shall
31 advise the commission as the department determines to be
32 appropriate. Such revenue requirements may also include any
33 advances made to the department hereunder or hereafter for
34 purposes of this division, or from the Department of Water
35 Resources Electric Power Fund, and General Fund moneys
36 expended by the department pursuant to the Governor's
37 Emergency Proclamation dated January 17, 2001. For purposes of
38 this division and except as otherwise provided in this section, the
39 ~~Public Utility Commission's~~ *commission's* authority as set forth in
40 Section 451 of the Public Utilities Code shall apply, except any just



1 and reasonable review under Section 451 shall be conducted and
2 determined by the department. The commission may enter into an
3 agreement with the department with respect to charges under
4 Section 451 for purposes of this division, and that agreement shall
5 have the force and effect of a financing order adopted in
6 accordance with Article 5.5 (commencing with Section 840) of
7 Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as
8 determined by the commission. In no case shall the commission
9 increase the electricity charges in effect on ~~the date that the act that~~
10 ~~adds this section becomes effective~~ *February 1, 2001* for
11 residential customers for existing baseline quantities or usage by
12 those customers of up to 130 percent of existing baseline
13 quantities, until such time as the department has recovered the
14 costs of power it has procured for the electrical corporation's retail
15 end use customers as provided in this division. ~~After the passage~~
16 ~~of such period of time after the effective date of this section as shall~~
17 ~~be determined by the commission, the right of retail end use~~
18 ~~customers pursuant to Article 6 (commencing with Section 360)~~
19 ~~of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code~~
20 ~~to acquire service from other providers shall be suspended until the~~
21 ~~department no longer supplies power hereunder.~~ The department
22 shall have the same rights with respect to the payment by retail end
23 use customers for power sold by the department as do providers of
24 power to such customers.

25 SEC. 4. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

