AMENDED IN ASSEMBLY APRIL 24, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL No. 1284

Introduced by Assembly Member Leslie

February 21, 2003

An act to add and repeal Section 80110.2 of the Water Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1284, as amended, Leslie. Direct transactions: cost responsibility surcharges.

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 retail end-use customers. However, other existing law suspends the right of retail end-use customers to acquire 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 that law. Under existing law, the commission has imposed certain surcharges on retail end-use customers that continue to receive service in a direct transaction.

This bill, until January 1, 2009, would exempt *a qualifying exempt direct transaction customer, as defined,* from those surcharges ~~an entity whose sole source of raw fiber material is recycled or reclaimed wood waste used in a manufacturing process that does not permit flexible energy consumption~~ .

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

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

~~SECTION 1. The Legislature finds and declares all of the following:~~

~~(a) SierraPine is the only company remaining in California that manufactures fiberboard and is one of two companies producing particleboard.~~

~~(b) The sole source of raw fiber material is recycled or reclaimed wood waste. SierraPine takes in 371,000 dry tons per year of wood residuals from sawmills, millworks, furniture companies, and other woodworks companies, and 31,000 dry tons per year of urban wood waste from discarded or dismantled sites.~~

~~(c) These wood waste products are made into particleboard and fiberboard. SierraPine provides this state with 29 percent of its particleboard and 35 percent of its fiberboard. About 85 percent of the boards are used to manufacture retail products, such as furniture, shelving, cabinets, countertops, molding, and flooring, which can be found in nearly every home and office in this state. The remaining 15 percent is used in actual housing construction in the state.~~

~~(d) Few alternatives exist for disposal of these wood wastes:~~

~~(1) Burning, which has serious air quality implications.~~

~~(2) Landfill, which overburdens county landfill sites, and should be used only as a last resort. Recycling is favored.~~

~~(3) Use in other industries, although no other industry can use this large volume of waste on a continuous basis.~~

~~(e) All SierraPine production in this state is certified to be from 100 percent recovered and recycled fiber content.~~

~~(f) SierraPine is a 2001 and 2002 recipient of the California Waste Reduction Award Program (WRAP), which recognizes businesses that develop innovative and aggressive programs to reduce the amount of waste sent to landfills.~~

~~(g) Ongoing research by SierraPine will enable greater use of material currently being disposed of in different ways.~~

~~(h) The manufacturing processes use large amounts of electricity to operate equipment.~~

~~(i) As a volume-driven business with plants that require lengthy shut down and startup times, these process lines must operate continuously; 24 hours per day, 7 days per week, all year, which does not allow for electric load shaping or flexible operating schedules.~~

~~(j) Historically, SierraPine averages a single digit earning margin (about 5 percent) with a double digit electric cost component (nearly 10 percent).~~

~~(k) Due to this extreme sensitivity to electricity costs, an increase in that cost component significantly affects the earning margin and the ability to remain competitive. Competitors are outside of California where electricity costs are significantly lower. The addition of surcharges on top of higher market prices for electricity has caused the plants to curtail operations due to high costs. In the worst case, these costs have made the fiberboard plant unable to compete in California, even though it is the only such plant in the state.~~

~~*(l) SierraPine has taken significant steps in attempting to control its electrical cost structure: it has been an interruptible end user for over eight years with full compliance, has participated in demand response programs during critical energy periods for California, has installed energy efficient motors and equipment in facilities, and has elected to use direct transactions from the beginning of electrical restructuring. SierraPine was involuntarily returned to bundled utility service but moved back to direct access before July 1, 2001.*~~

~~(m) For every job created by SierraPine, 2.2 nonmanufacturing jobs are created in this state. For every dollar earned by a SierraPine employee, two dollars and 30 cents ($2.30) are added to the total pool of income earned by the employees in other employment sectors throughout the state. Based on the above factor, SierraPine's California facilities are providing a labor earnings impact of forty-seven million five hundred thousand dollars ($47,500,000) annually.~~

~~(n) SierraPine provides excellent pay and benefits, which fills the critical gap between service and high-tech jobs. The least-skilled job pays thirteen dollars and seventy-nine cents ($13.79) per hour. Employees receive full healthcare benefits, including medical, dental, and vision which cost the company an average of between five hundred fifty dollars ($550) per employee~~

~~per month. Employees have retirement plans that include company contributions through 401(k) and defined benefit plans. Other benefits such as life insurance, short-term and long-term disability, and Section 125 plans are also provided. Unskilled workers can hold year-round steady employment.~~

~~(o) The SierraPine particleboard plant is one of the largest employers in Amador County with 150 employees and an annual payroll of six million dollars ($6,000,000). It has complete emissions compliance, spends about forty million dollars ($40,000,000) annually on the cost of their product, pays about two hundred fifty thousand dollars ($250,000) annually in property taxes, and has operated at its present location for 31 years.~~

~~(p) The SierraPine fiberboard plant has over 200 employees at its Placer County facility, with an annual payroll of eight million four hundred thousand dollars ($8,400,000). It has state-of-the-art emissions control providing for full compliance in a residential neighborhood, it spends about sixty million dollars ($60,000,000) annually on the cost of their product, pays about five hundred seventy-five thousand dollars ($575,000) annually in property taxes, and has operated at its present location for 29 years.~~

~~SEC. 2.~~

SECTION 1. Section 80110.2 is added to the Water Code, to read:

80110.2. (a) Notwithstanding Section 80110, ~~an entity whose sole source of raw fiber material is recycled or reclaimed wood waste used in a manufacturing process that does not permit flexible energy consumption shall be exempt from cost recovery surcharges under commission Decision 02-11-022, or any subsequent commission decision, order, or regulation.~~

~~(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.~~ *a qualifying exempt direct transaction customer shall, not pay a direct access cost recovery surcharge, but will pay any charge imposed to enable the Department of Water Resource to recover its bond-related costs, along with a tail competition transition charge, not to exceed $0.01 per kilowatthour on the actual kilowatthours used.*

(b) For purposes of this section, a "qualifying exempt direct transaction customer" means any corporation that meets each of the following requirements:

(1) The corporation entered into a direct transaction with an electric service provider for electric service for a plant or facility in California, by executing a contract prior to January 1, 2000, that extended service through at least February 1, 2001.

(2) The plant or facility was, after February 1, 2001, involuntarily returned to the electrical corporation for electrical service, as a result of the electric service provider terminating electrical service under the direct transaction contract.

(3) The plant or facility returned to receiving electric service from an electric service provider pursuant to a direct transaction within 90 days.

(4) The plant or facility continuously participated in an interruptible or curtailable service program.

(5) The corporation had an average total cost for all aspects of electric service, as a percentage of sales, in excess of 8 percent, for the five years beginning January 1, 1996, and continuing to December 31, 2000.

(6) The corporation had an average net profit margin as a percentage of sales of greater than 2 percent, for the five years beginning January 1, 1996, and continuing to December 31, 2000.

(7) The average total electric service cost as a percentage of sales, exceeded the average net profit margin for the corporation, for the five years beginning January 1, 1996, and continuing to December 31, 2000.

(8) The corporation submits a declaration from an officer, director, or owner stating that unless relieved of the expense of the direct access cost recovery surcharge, the plant or facility of the corporation that purchases electric service under the direct transaction contract, faces certain and imminent closure.

(c) It is the intent of the Legislature that no costs be shifted between customer classes as a result of this section.

(d) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

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