

AMENDED IN SENATE JUNE 17, 2003  
AMENDED IN ASSEMBLY MAY 8, 2003  
AMENDED IN ASSEMBLY MAY 5, 2003  
AMENDED IN ASSEMBLY APRIL 24, 2003  
AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1284**

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**Introduced by Assembly Member Leslie**

February 21, 2003

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An act to add and repeal Section 80110.2 of the Water Code, relating to energy resources, *and declaring the urgency thereof, to take effect immediately.*

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 a cost recovery surcharge 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 certain components of the direct access cost recovery surcharge and would subject the remaining charges to a cap of \$0.01 per kilowatthour.

*The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 80110.2 is added to the Water Code, to  
 2 read:  
 3 80110.2. (a) (1) Notwithstanding Section 80110, a  
 4 qualifying exempt direct transaction customer shall be exempt  
 5 from paying a direct access cost recovery surcharge, except for the  
 6 following surcharge components, subject to paragraph (2):  
 7 (A) Any charge imposed to enable the department to recover its  
 8 bond-related costs under this division.  
 9 (B) A tail competition transition charge.  
 10 (2) Notwithstanding paragraph (1), the charges paid by a  
 11 qualifying exempt direct transaction customer may not exceed  
 12 \$0.01 per kilowatthour on the actual kilowatthours used.  
 13 (b) For purposes of this section, a “qualifying exempt direct  
 14 transaction customer” means any ~~corporation~~ *company* that meets  
 15 each of the following requirements:  
 16 (1) The ~~corporation~~ *company* entered into a direct transaction  
 17 with an electric service provider for electric service for a plant or  
 18 facility in California, by executing a contract prior to January 1,  
 19 2000, that extended service through at least February 1, 2001.  
 20 (2) The plant or facility was, after February 1, 2001,  
 21 involuntarily returned to the electrical corporation for electrical  
 22 service, as a result of the electric service provider terminating  
 23 electrical service under the direct transaction contract.  
 24 ~~(3) The plant or facility returned to receiving electric service~~  
 25 ~~from an electric service provider pursuant to a direct transaction~~  
 26 ~~within 90 days.~~



1 (3) *The plant or facility entered into a new direct transaction*  
2 *with an electric service provider for the plant or facility's electric*  
3 *service and a direct access service request (DASR) was submitted*  
4 *within 90 days from the date the plant or facility's most recent*  
5 *direct transaction contract was involuntarily terminated.*

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

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

12 (6) The ~~corporation~~ *plant or facility* had an average net profit  
13 margin as a percentage of sales of greater than 2 percent, for the  
14 five years beginning January 1, 1996, and continuing to December  
15 31, 2000.

16 (7) The average total electric service cost as a percentage of  
17 sales, exceeded the average net profit margin ~~for the corporation~~  
18 *as a percentage of sales for the plant or facility*, for the five years  
19 beginning January 1, 1996, and continuing to December 31, 2000.

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

25 (c) It is the intent of the Legislature that bundled customer  
26 indifference be achieved and that no costs be shifted between  
27 customer classes as a result of this section.

28 (d) This section shall remain in effect only until January 1,  
29 2009, and as of that date is repealed, unless a later enacted statute,  
30 that is enacted before January 1, 2009, deletes or extends that date.

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

35 *In order to ensure that the public's best interest is served, and*  
36 *to preserve numerous jobs at facilities that face certain and*  
37 *imminent closure due to the high cost of electricity as a result of*



- 1 *being involuntarily returned to bundled electric service during the*
- 2 *energy crisis, it is necessary that this act take effect immediately.*

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