

AMENDED IN SENATE JULY 14, 2003  
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**

---

---

**Introduced by Assembly Member Leslie**

February 21, 2003

---

---

~~An act to add and repeal Section 80110.2 of the Water Code, relating~~  
*An act to add and repeal Section 367.3 of the Public Utilities 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~~ *responsibility* 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~~ *authorize the commission, if it finds it is in the public interest and there is no feasible alternative, to defer or waive the collection of a portion of the cost responsibility surcharge otherwise applicable to a qualifying direct transaction customer, as defined, to the extent necessary to mitigate certain conditions described in an application and declaration submitted by the customer to the commission. The bill would require the commission to issue a decision on such an application on or before September 4, 2003.*

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

Vote: <sup>2</sup>/<sub>3</sub>. 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 ~~SECTION 1. 367.3 is added to the Public Utilities Code, to~~
- 15 ~~read:~~
- 16 ~~367.3. (a) For purposes of this section, a “qualifying direct~~
- 17 ~~transaction customer” means any ~~company~~ customer that meets~~
- 18 ~~each of the following requirements:~~



1 (1) The ~~company~~ *customer* entered into a direct transaction  
2 with an electric service provider for electric service for a plant or  
3 facility in California, by executing a contract prior to January 1,  
4 2000, that extended service through at least February 1, 2001.

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

9 (3) The plant or facility entered into a new direct transaction  
10 with an electric service provider for the plant or facility's electric  
11 service and a direct access service request (DASR) was submitted  
12 within 90 days from the date the plant or facility's most recent  
13 direct transaction contract was involuntarily terminated.

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

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

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

23 (7) The average total electric service cost as a percentage of  
24 sales, exceeded the average net profit margin as a percentage of  
25 sales for the plant or facility, for the five years beginning January  
26 1, 1996, and continuing to December 31, 2000.

27 (8) The ~~company~~ ~~submits~~ *customer submits an application to*  
28 *the commission pursuant to this section within seven days of the*  
29 *operative date of the act adding this section, accompanied by a*  
30 *declaration from an officer, director, or owner stating that unless*  
31 *relieved of the expense of the direct access cost ~~recovery~~*  
32 *responsibility surcharge, the plant or facility that purchases*  
33 *electric service under the direct transaction contract, faces certain*  
34 *and imminent closure.*

35 ~~(e) It is the intent of the Legislature that bundled customer~~  
36 ~~indifference be achieved and that no costs be shifted between~~  
37 ~~customer classes as a result of this section.~~

38 ~~(d)~~

39 *(b) If the commission finds it is in the public interest and there*  
40 *is no feasible alternative, the commission may defer or waive the*



1 *collection of a portion of the cost responsibility surcharge*  
2 *otherwise applicable to a qualifying direct transaction customer,*  
3 *to the extent necessary to mitigate the conditions described in*  
4 *paragraph (8) of subdivision (a). That deferral or waiver may not*  
5 *result in any shifting of costs to bundled service customers, either*  
6 *immediately or over time, or delay the full and timely recovery of*  
7 *costs from direct access customers as a group.*

8 *(c) The commission shall issue a decision on an application*  
9 *submitted pursuant to this section on or before September 4, 2003.*

10 *(d) The commission shall require an electrical corporation to*  
11 *defer collection of a portion of the cost responsibility surcharge*  
12 *otherwise applicable to a qualifying direct transaction customer*  
13 *while an application submitted pursuant to this section is pending*  
14 *before the commission and, if the application is granted, until the*  
15 *deferral or waiver is operative.*

16 *(e) This section shall remain in effect only until January 1,*  
17 *2009, and as of that date is repealed, unless a later enacted statute,*  
18 *that is enacted before January 1, 2009, deletes or extends that date.*

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

23 In order to ensure that the public's best interest is served, and to  
24 preserve numerous jobs at facilities that face certain and imminent  
25 closure due to the high cost of electricity as a result of being  
26 involuntarily returned to bundled electric service during the  
27 energy crisis, it is necessary that this act take effect immediately.

