

AMENDED IN SENATE JULY 16, 2003
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 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 responsibility surcharge on retail end-use customers that continue to receive service in a direct transaction.

This bill, until January 1, 2009, would 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: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. 367.3 is added to the Public Utilities Code, to
- 2 read:
- 3 367.3. (a) For purposes of this section, a “qualifying direct
- 4 transaction customer” means any customer that meets each of the
- 5 following requirements:
- 6 (1) The customer entered into a direct transaction with an
- 7 electric service provider for electric service for a plant or facility
- 8 in California, by executing a contract prior to January 1, 2000, that
- 9 extended service through at least February 1, 2001.
- 10 (2) The plant or facility was, after February 1, 2001,
- 11 involuntarily returned to the electrical corporation for electrical
- 12 service, as a result of the electric service provider terminating
- 13 electrical service under the direct transaction contract.
- 14 (3) The plant or facility entered into a new direct transaction
- 15 with an electric service provider for the plant or facility’s electric
- 16 service and a direct access service request (DASR) was submitted
- 17 within 90 days from the date the plant or facility’s most recent
- 18 direct transaction contract was involuntarily terminated.
- 19 (4) The plant or facility continuously participated in an
- 20 interruptible or curtailable service program.



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

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

8 (7) The average total electric service cost as a percentage of
9 sales, exceeded the average net profit margin as a percentage of
10 sales for the plant or facility, for the five years beginning January
11 1, 1996, and continuing to December 31, 2000.

12 (8) The customer submits an application to the commission
13 pursuant to this section within seven days of the operative date of
14 the act adding this section, accompanied by a declaration from an
15 officer, director, or owner stating that unless relieved of the
16 expense of the direct access cost responsibility surcharge, the plant
17 or facility that purchases electric service under the direct
18 transaction contract, faces certain and imminent closure.

19 (b) If the commission finds it is in the public interest and there
20 is no feasible alternative, the commission may defer or waive the
21 collection of a portion of the cost responsibility surcharge
22 otherwise applicable to a qualifying direct transaction customer,
23 to the extent necessary to mitigate the conditions described in
24 paragraph (8) of subdivision (a). That deferral or waiver may not
25 result in any shifting of costs to bundled service customers, either
26 immediately or over time, or delay the full and timely recovery of
27 costs from direct access customers as a group.

28 (c) The commission shall issue a decision on an application
29 submitted pursuant to this section on or before September 4, 2003.
30 *Notwithstanding subdivisions (d) and (g) of Section 311, the*
31 *commission may issue its decision in less than 30 days following*
32 *filing and service of the proposed decision.*

33 (d) The commission shall require an electrical corporation to
34 defer collection of a portion of the cost responsibility surcharge
35 otherwise applicable to a qualifying direct transaction customer
36 while an application submitted pursuant to this section is pending
37 before the commission and, if the application is granted, until the
38 deferral or waiver is operative.



1 (e) This section shall remain in effect only until January 1,
2 2009, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, 2009, deletes or extends that date.

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

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

