

AMENDED IN ASSEMBLY JUNE 1, 2004

AMENDED IN ASSEMBLY JUNE 9, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 659

Introduced by Senator Soto

February 21, 2003

~~An act to amend, repeal, and add Section 739 of the Public Utilities Code.~~
An act to amend Section 1731 of, and to repeal Section 1768 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 659, as amended, Soto. ~~Electrical corporations: rates~~ *Public Utilities Commission: rehearings and judicial review.*

Under existing law, after any order or decision has been made by the Public Utilities Commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing. Existing law specifically prohibits a cause of action arising out of any order or decision of the commission construing, applying, or implementing the provisions of Chapter 4 of the Statutes of 2001-02 First Extraordinary Session, relating to an electricity crisis, from accruing in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 10 days after the date of issuance of its order or decision, and requires the commission to issue its decision and order on rehearing within 20 days after the filing of that application.

Existing law also sets forth a specific procedure to expedite judicial review of an order or decision of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of 2001–02 First Extraordinary Session.

This bill would repeal the expedited rehearing and review provisions applicable specifically to Chapter 4 of the Statutes of 2001–02 First Extraordinary Session.

~~(1) Existing law requires the Public Utilities Commission, at least until December 31, 2003, to require that all electrical corporation charges for residential electric customers are volumetric, and to prohibit any electrical corporation from imposing any charges on residential consumption that are independent of consumption unless the charges are in place prior to April 12, 2001.~~

~~This bill would, until January 1, 2009, directly impose a requirement that all charges for residential electric customers be volumetric, and would prohibit an electrical corporation from imposing any charges on residential electric customers that are independent of consumption, excepting a reasonable minimum monthly bill, as determined by the commission. Because existing law makes a violation of a rule or order of the commission a crime, this bill would change the definition of a 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 *no*.

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

- 1 SECTION 1.—Section 739 of the Public Utilities Code is
- 2 SECTION 1. *The Legislature finds and declares all of the*
- 3 *following:*
- 4 (a) *Chapter 4 of the Statutes of 2001–02 First Extraordinary*
- 5 *Session authorized the Department of Water Resources to*
- 6 *purchase electric power for sale to customers of certain financially*
- 7 *distressed electrical corporations, and to issue bonds to fund a*
- 8 *portion of the costs of those purchases.*



1 (b) Chapter 9 of the Statutes of 2001–02 First Extraordinary
2 Session, enacted various amendments to the provisions described
3 in subdivision (a), and also added expedited rehearing and
4 judicial review provisions to the Public Utilities Code to facilitate
5 the issuance of those bonds at the earliest possible date.

6 (c) The sale of the bonds was successfully completed in late
7 2002.

8 (d) Now that the bonds have been sold, the expedited rehearing
9 and judicial review provisions are no longer necessary and should
10 be repealed, so that rehearing and judicial review of orders and
11 decisions of the commission that construe, apply, or implement
12 Chapter 4 of the Statutes of 2001–02 First Extraordinary Session,
13 that are not related to the bond issuance can be conducted under
14 the statutory procedures that govern most other orders and
15 decisions of the commission.

16 SEC. 2. Section 1731 of the Public Utilities Code is amended
17 to read:

18 1731. (a) The commission shall set an effective date when
19 issuing an order or decision. The commission may set the effective
20 date of an order or decision prior to the date of issuance of the order
21 or decision.

22 (b) After any order or decision has been made by the
23 commission, any party to the action or proceeding, or any
24 stockholder or bondholder or other party pecuniarily interested in
25 the public utility affected, may apply for a rehearing in respect to
26 any matters determined in the action or proceeding and specified
27 in the application for rehearing. The commission may grant and
28 hold a rehearing on those matters, if in its judgment sufficient
29 reason is made to appear. No cause of action arising out of any
30 order or decision of the commission shall accrue in any court to any
31 corporation or person unless the corporation or person has filed an
32 application to the commission for a rehearing within 30 days after
33 the date of issuance or within 10 days after the date of issuance in
34 the case of an order issued pursuant to either Article 5
35 (commencing with Section 816) or Article 6 (commencing with
36 Section 851) of Chapter 4 relating to security transactions and the
37 transfer or encumbrance of utility property. For purposes of this
38 article, “date of issuance” means the date when the commission
39 mails the order or decision to the parties to the action or
40 proceeding.



1 ~~(c) No cause of action arising out of any order or decision of the~~
2 ~~commission construing, applying, or implementing the provisions~~
3 ~~of Chapter 4 of the Statutes of 2001-02 First Extraordinary~~
4 ~~Session shall accrue in any court to any corporation or person~~
5 ~~unless the corporation or person has filed an application to the~~
6 ~~commission for a rehearing within 10 days after the date of~~
7 ~~issuance of the order or decision. The commission shall issue its~~
8 ~~decision and order on rehearing within 20 days after the filing of~~
9 ~~that application.~~

10 *SEC. 3. Section 1768 of the Public Utilities Code is repealed.*

11 ~~1768. The following procedures shall apply to judicial review~~
12 ~~of an order or decision of the commission interpreting,~~
13 ~~implementing, or applying the provisions of Chapter 4 of the~~
14 ~~Statutes of 2001-02 First Extraordinary Session:~~

15 ~~(a) Within 30 days after the commission issues its order or~~
16 ~~decision denying the application for a rehearing, or, if the~~
17 ~~application is granted, then within 30 days after the commission~~
18 ~~issues its decision on rehearing, any aggrieved party may petition~~
19 ~~for a writ of review in the California Supreme Court for the~~
20 ~~purpose of determining the lawfulness of the original order or~~
21 ~~decision or of the order or decision on rehearing. If the writ issues,~~
22 ~~it shall be made returnable at a time and place specified by court~~
23 ~~order and shall direct the commission to certify its record in the~~
24 ~~case to the court within the time specified. No order of the~~
25 ~~commission interpreting, implementing, or applying the~~
26 ~~provisions of Chapter 4 of the Statutes of 2001-02 First~~
27 ~~Extraordinary Session shall be subject to review in the courts of~~
28 ~~appeal.~~

29 ~~(b) The petition for review shall be served upon the executive~~
30 ~~director of the commission either personally or by service at the~~
31 ~~office of the commission.~~

32 ~~(c) For purposes of this section, the issuance of a decision or the~~
33 ~~granting of an application shall be construed to have occurred on~~
34 ~~the date when the commission mails the decision or grant to the~~
35 ~~parties to the action or proceeding.~~

36 ~~(d) All actions and proceedings under this section and all~~
37 ~~actions or proceedings to which the commission or the people of~~
38 ~~the State of California are parties in which any question arises~~
39 ~~under this section, or under or concerning any order or decision of~~
40 ~~the commission under this section, shall be preferred over, and~~



1 shall be heard and determined in preference to, all other civil
2 business except election causes, irrespective of position on the
3 calendar.

4 (e) The provisions of this article apply to actions under this
5 section to the extent that those provisions are not in conflict with
6 this section.

7 amended to read:

8 739. (a) The commission shall designate a baseline quantity
9 of gas and electricity which is necessary to supply a significant
10 portion of the reasonable energy needs of the average residential
11 customer. In estimating those quantities, the commission shall take
12 into account differentials in energy needs between customers
13 whose residential energy needs are currently supplied by
14 electricity alone or by both electricity and gas. The commission
15 shall develop a separate baseline quantity for all electric
16 residential customers. For these purposes, "all-electric residential
17 customers" are residential customers having electrical service
18 only or whose space heating is provided by electricity, or both. The
19 commission shall also take into account differentials in energy use
20 by climatic zone and season.

21 (b) (1) The commission shall establish a standard limited
22 allowance which shall be in addition to the baseline quantity of gas
23 and electricity for residential customers dependent on life support
24 equipment, including, but not limited to, emphysema and
25 pulmonary patients. A residential customer dependent on
26 life support equipment shall be given a higher energy allocation
27 than the average residential customer.

28 (2) "Life support equipment" means that equipment which
29 utilizes mechanical or artificial means to sustain, restore, or
30 supplant a vital function, or mechanical equipment which is relied
31 upon for mobility both within and outside of buildings.
32 "Life support equipment," as used in this subdivision, includes
33 all of the following: all types of respirators, iron lungs,
34 hemodialysis machines, suction machines, electric nerve
35 stimulators, pressure pads and pumps, aerosol tents, electrostatic
36 and ultrasonic nebulizers, compressors, IPPB machines, and
37 motorized wheelchairs.

38 (3) The limited additional allowance shall also be made
39 available to paraplegic and quadriplegic persons in consideration
40 of the increased heating and cooling needs of those persons.



1 ~~(4) The limited additional allowance shall also be made~~
2 ~~available to multiple sclerosis patients in consideration of the~~
3 ~~increased heating and cooling needs of those persons.~~

4 ~~(5) The limited additional allowance shall also be made~~
5 ~~available to scleroderma patients in consideration of the increased~~
6 ~~heating needs of those persons.~~

7 ~~(6) The limited allowance shall also be made available to~~
8 ~~persons who are being treated for a life-threatening illness or have~~
9 ~~a compromised immune system, provided that a licensed~~
10 ~~physician and surgeon or a person licensed pursuant to the~~
11 ~~Osteopathic Initiative Act certifies in writing to the utility that the~~
12 ~~additional heating or cooling allowance, or both, made available~~
13 ~~pursuant to this subdivision is medically necessary to sustain the~~
14 ~~life of the person or prevent deterioration of the person's medical~~
15 ~~condition.~~

16 ~~(c) (1) The commission shall require that every electrical and~~
17 ~~gas corporation file a schedule of rates and charges providing~~
18 ~~baseline rates. The baseline rates shall apply to the first or lowest~~
19 ~~block of an increasing block rate structure which shall be the~~
20 ~~baseline quantity. In establishing these rates, the commission shall~~
21 ~~avoid excessive rate increases for residential customers, and shall~~
22 ~~establish an appropriate gradual differential between the rates for~~
23 ~~the respective blocks of usage.~~

24 ~~(2) In establishing residential electric and gas rates, including~~
25 ~~baseline rates, the commission shall assure that the rates are~~
26 ~~sufficient to enable the electrical corporation or gas corporation to~~
27 ~~recover a just and reasonable amount of revenue from residential~~
28 ~~customers as a class, while observing the principle that electricity~~
29 ~~and gas services are necessities, for which a low affordable rate is~~
30 ~~desirable and while observing the principle that conservation is~~
31 ~~desirable in order to maintain an affordable bill.~~

32 ~~(3) With the exception of a reasonable minimum monthly bill,~~
33 ~~as determined by the commission, all charges for residential~~
34 ~~electric customers shall be volumetric, and an electrical~~
35 ~~corporation may not impose any charges on residential electric~~
36 ~~customers that are independent of consumption, unless those~~
37 ~~charges were in place before April 12, 2001.~~

38 ~~(d) As used in this section:~~

39 ~~(1) "Baseline quantity" means a quantity of electricity or gas~~
40 ~~for residential customers to be established by the commission~~



1 ~~based on from 50 to 60 percent of average residential consumption~~
2 ~~of these commodities, except that, for residential gas customers~~
3 ~~and for all-electric residential customers, the baseline quantity~~
4 ~~shall be established at from 60 to 70 percent of average residential~~
5 ~~consumption during the winter heating season. In establishing the~~
6 ~~baseline quantities, the commission shall take into account~~
7 ~~climatic and seasonal variations in consumption and the~~
8 ~~availability of gas service. The commission shall review and revise~~
9 ~~baseline quantities as average consumption patterns change in~~
10 ~~order to maintain these ratios.~~

11 ~~(2) “Residential customer” means those customers receiving~~
12 ~~electrical or gas service pursuant to a domestic rate schedule and~~
13 ~~excludes industrial, commercial, and every other category of~~
14 ~~customer.~~

15 ~~(c) Wholesale electrical or gas purchases, and the rates charged~~
16 ~~therefor, are exempt from this section.~~

17 ~~(f) Nothing contained in this section may be construed to~~
18 ~~prohibit experimentation with alternative gas or electrical rate~~
19 ~~schedules for the purpose of achieving energy conservation.~~

20 ~~(g) This section shall remain in effect only until January 1,~~
21 ~~2009, and as of that date is repealed, unless a later enacted statute,~~
22 ~~that is enacted before January 1, 2009, deletes or extends that date.~~

23 ~~SEC. 2.— Section 739 is added to the Public Utilities Code, to~~
24 ~~read:~~

25 ~~739.—(a) The commission shall designate a baseline quantity~~
26 ~~of gas and electricity which is necessary to supply a significant~~
27 ~~portion of the reasonable energy needs of the average residential~~
28 ~~customer. In estimating those quantities, the commission shall take~~
29 ~~into account differentials in energy needs between customers~~
30 ~~whose residential energy needs are currently supplied by~~
31 ~~electricity alone or by both electricity and gas. The commission~~
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37 ~~by climatic zone and season.~~

38 ~~(b) (1) The commission shall establish a standard limited~~
39 ~~allowance which shall be in addition to the baseline quantity of gas~~
40 ~~and electricity for residential customers dependent on life support~~



1 equipment, including, but not limited to, emphysema and
2 pulmonary patients. A residential customer dependent on
3 life-support equipment shall be given a higher energy allocation
4 than the average residential customer.

5 (2) “Life-support equipment” means that equipment which
6 utilizes mechanical or artificial means to sustain, restore, or
7 supplant a vital function, or mechanical equipment which is relied
8 upon for mobility both within and outside of buildings.
9 “Life-support equipment,” as used in this subdivision, includes
10 all of the following: all types of respirators, iron lungs,
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24 (6) The limited allowance shall also be made available to
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26 a compromised immune system, provided that a licensed
27 physician and surgeon or a person licensed pursuant to the
28 Osteopathic Initiative Act certifies in writing to the utility that the
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30 pursuant to this subdivision is medically necessary to sustain the
31 life of the person or prevent deterioration of the person’s medical
32 condition.

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34 gas corporation file a schedule of rates and charges providing
35 baseline rates. The baseline rates shall apply to the first or lowest
36 block of an increasing block rate structure which shall be the
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40 the respective blocks of usage.



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8 ~~desirable in order to maintain an affordable bill.~~

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11 ~~for residential customers to be established by the commission~~
12 ~~based on from 50 to 60 percent of average residential consumption~~
13 ~~of these commodities, except that, for residential gas customers~~
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24 ~~excludes industrial, commercial, and every other category of~~
25 ~~customer.~~

26 ~~(e) Wholesale electrical or gas purchases, and the rates charged~~
27 ~~therefor, are exempt from this section.~~

28 ~~(f) Nothing contained in this section may be construed to~~
29 ~~prohibit experimentation with alternative gas or electrical rate~~
30 ~~schedules for the purpose of achieving energy conservation.~~

31 ~~(g) This section shall become operative on January 1, 2009.~~

32 ~~SEC. 3.—No reimbursement is required by this act pursuant to~~
33 ~~Section 6 of Article XIII B of the California Constitution because~~
34 ~~the only costs that may be incurred by a local agency or school~~
35 ~~district will be incurred because this act creates a new crime or~~
36 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
37 ~~for a crime or infraction, within the meaning of Section 17556 of~~
38 ~~the Government Code, or changes the definition of a crime within~~



1 ~~the meaning of Section 6 of Article XIII B of the California~~
2 ~~Constitution.~~

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