

AMENDED IN SENATE APRIL 8, 2003

**SENATE BILL**

**No. 888**

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**Introduced by Senator ~~Dunn~~ Senators *Dunn, Bowen, and Burton*  
(Coauthors: *Senators Alpert, Escutia, Karnette, Kuehl, Machado,  
Ortiz, Perata, and Romero*)  
(Coauthors: *Assembly Members Matthews and Steinberg*)**

February 21, 2003

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An act to ~~add Section 712 to~~ amend Sections 335, 352, 364, 367, 377, 379, 392, and 9604 of, to amend and renumber Section 454.1 of, to add Sections 330.1, 330.2, 330.4, 330.6, 367.5, 393.1, 393.2, 454.10, and 761.7 to, to repeal Sections 334, 338, 341.1, 341.5, 346, 348, 350, 355, 356, 359, 360, 361, 365, 365.5, 366.5, 367.7, 370, 373, 376, 378, 389, 391, 397, 9600, 9601, 9602, 9603, and 9605 of, and to repeal and add Sections 330 and 366 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 888, as amended, ~~Dunn~~. Public utilities: electrical restructuring.

~~Existing law authorizes the Public Utilities Commission~~ (1) *The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the production, generation, transmission, or furnishing of heat, light, or power; directly or indirectly to or for the public, are public utilities subject to control by the Legislature. The Constitution grants the commission certain general powers over all public utilities, including the power to fix rates and establish rules, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to*

*confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. The Public Utilities Act authorizes the commission to supervise and regulate every public utility in the state, including electrical, gas, and heat corporations, subject to provisions restructuring the electrical industry.*

~~This bill would declare the intent of the Legislature in subsequent legislation, to repeal those provisions restructuring the electrical industry.~~

*The existing restructuring of the electrical services industry provides for the authorization of direct transactions between an electric service provider, as defined, and retail end-use customers of an electrical corporation and allows end-use customers to aggregate their loads to facilitate direct transactions. The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO) and a Power Exchange as separately incorporated public benefit nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the ISO and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. The ISO is required by existing law to participate in all relevant proceedings of the Federal Energy Regulatory Commission (FERC). Pursuant to an order of the FERC, the Power Exchange has ceased to function. The Oversight Board is granted various powers including, but not limited to, requiring the revision of the bylaws of the ISO and the approval of the entry of the ISO into a multistate entity or a regional organization. Existing law requires the ISO to adopt certain inspection, maintenance, repair, and replacement standards for the transmission facilities under its control and to make a related report to the Oversight Board. Existing law authorizes the ISO and the Power Exchange to enter into a regional compact or other comparable agreement to become western states regional organizations.*

*This bill would enact the Repeal of Electricity Deregulation Act of 2003. The bill would provide that the obligation of electrical and gas corporations to provide adequate service at just and reasonable rates, includes a duty of care, a duty of loyalty, a duty of disclosure, and a duty to use best efforts by the corporation's management, to maintain safe, healthful, and affordable basic service for end-use customers, consistent with the statutes of the state and the rules, regulations, decisions, and orders of the commission. The bill would require the*



*commission to ensure that public utility employees and investors are afforded the means to carry out these obligations, specifically including reasonable compensation for employees and fair sharing of risks and rewards for investors. The bill would require the commission to ensure that generation assets remain dedicated for the benefit of the electrical corporation's bundled customers, and establishes standards for the recovery of costs and return on investment. The bill would authorize the commission to require electrical corporations to make investments in electric plants that are dedicated to serve customers connected to the electrical corporation's distribution system or grid, or to contract for such investment with the California Consumer Power and Conservation Financing Authority.*

*This bill would delete the authorization of direct transactions, including aggregation of loads and other provisions to facilitate direct transactions, between an electric service provider and retail end-use customers of an electrical corporation, on a prospective basis. The bill would require all metering of customer usage of electricity and customer billing to be performed by the electrical corporation and would prohibit residential and small commercial customers being required to take service under a time-differentiated rate without prior consent.*

*This bill would delete those provisions establishing the Power Exchange and would make conforming changes repealing those provisions granting powers to the Oversight Board relative to the Power Exchange. The bill would delete provisions relative to the ISO participation in FERC activities. The bill would require the Legislature to approve the entry of the ISO into a multistate or regional transmission organization, and would repeal that provision regarding the adoption of standards for transmission facilities by the ISO. The bill would require the commission to periodically review and update inspection, maintenance, repair, and replacement standards for the distribution and transmission systems of investor-owned electric utilities. The bill would repeal the regional compact provision. The bill would make other conforming changes. Because any violation of the Public Utilities Act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.*

*This bill would establish a Ratepayer Refund Account for each electrical corporation, into which would be paid any funds recovered by electrical corporations resulting from litigation or agreement relative to the charging of excessive costs for wholesale electricity by*



electrical generators. All funds would be held in trust on behalf of ratepayers.

(2) The existing Public Utilities Act, prohibits any person or corporation from acquiring or controlling, directly or indirectly, any public utility organized and doing business in this state, including electrical corporations and gas corporations, without first securing authorization to do so from the commission.

Existing law requires the commission, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount, to consider, among other things, that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the commission, between shareholders and ratepayers, where the commission has ratemaking authority.

Pursuant to the act, the commission has authorized the formation of holding companies holding a controlling interest in certain electrical corporations and gas corporations. The commission has conditioned authorization upon the capital requirements of the electrical corporation or gas corporation being given first priority by the board of directors of the parent holding company, as determined by the commission as being necessary to meet the obligation to serve the electrical corporation or gas corporation.

This bill would provide that a holding company as defined, or other entity that owns, controls, operates, or manages a public utility, is subject to the continuing jurisdiction and power of the commission for the limited purpose of monitoring and enforcing conditions in certain decisions of the commission authorizing the formation of holding companies. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

(3) This bill would delete provisions relative to the restructuring of electrical service provided by publicly owned electrical utilities.

(4) 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: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

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

1     ~~SECTION 1.—Section 712 is added to the Public Utilities~~  
2     ~~SECTION 1. Section 330 of the Public Utilities Code is~~  
3     ~~repealed.~~

4     ~~330.—In order to provide guidance in carrying out this chapter,~~  
5     ~~the Legislature finds and declares all of the following:~~

6     ~~(a) It is the intent of the Legislature that a cumulative rate~~  
7     ~~reduction of at least 20 percent be achieved not later than April 1,~~  
8     ~~2002, for residential and small commercial customers, from the~~  
9     ~~rates in effect on June 10, 1996. In determining that the April 1,~~  
10    ~~2002, rate reduction has been met, the commission shall exclude~~  
11    ~~the costs of the competitively procured electricity and the costs~~  
12    ~~associated with the rate reduction bonds, as defined in Section 840.~~

13    ~~(b) The people, businesses, and institutions of California spend~~  
14    ~~nearly twenty three billion dollars (\$23,000,000,000) annually on~~  
15    ~~electricity, so that reductions in the price of electricity would~~  
16    ~~significantly benefit the economy of the state and its residents.~~

17    ~~(c) The Public Utilities Commission has opened rulemaking~~  
18    ~~and investigation proceedings with regard to restructuring~~  
19    ~~California’s electric power industry and reforming utility~~  
20    ~~regulation.~~

21    ~~(d) The commission has found, after an extensive public~~  
22    ~~review process, that the interests of ratepayers and the state as a~~  
23    ~~whole will be best served by moving from the regulatory~~  
24    ~~framework existing on January 1, 1997, in which retail electricity~~  
25    ~~service is provided principally by electrical corporations subject~~  
26    ~~to an obligation to provide ultimate consumers in exclusive service~~  
27    ~~territories with reliable electric service at regulated rates, to a~~  
28    ~~framework under which competition would be allowed in the~~  
29    ~~supply of electric power and customers would be allowed to have~~  
30    ~~the right to choose their supplier of electric power.~~

31    ~~(e) Competition in the electric generation market will~~  
32    ~~encourage innovation, efficiency, and better service from all~~  
33    ~~market participants, and will permit the reduction of costly~~  
34    ~~regulatory oversight.~~



1 ~~(f) The delivery of electricity over transmission and~~  
2 ~~distribution systems is currently regulated, and will continue to be~~  
3 ~~regulated to ensure system safety, reliability, environmental~~  
4 ~~protection, and fair access for all market participants.~~

5 ~~(g) Reliable electric service is of utmost importance to the~~  
6 ~~safety, health, and welfare of the state's citizenry and economy. It~~  
7 ~~is the intent of the Legislature that electric industry restructuring~~  
8 ~~should enhance the reliability of the intereconnected regional~~  
9 ~~transmission systems, and provide strong coordination and~~  
10 ~~enforceable protocols for all users of the power grid.~~

11 ~~(h) It is important that sufficient supplies of electric generation~~  
12 ~~will be available to maintain the reliable service to the citizens and~~  
13 ~~businesses of the state.~~

14 ~~(i) Reliable electric service depends on conscientious~~  
15 ~~inspection and maintenance of transmission and distribution~~  
16 ~~systems. To continue and enhance the reliability of the delivery of~~  
17 ~~electricity, the Independent System Operator and the commission,~~  
18 ~~respectively, should set inspection, maintenance, repair, and~~  
19 ~~replacement standards.~~

20 ~~(j) It is the intent of the Legislature that California enter into a~~  
21 ~~compact with western region states. That compact should require~~  
22 ~~the publicly and investor-owned utilities located in those states,~~  
23 ~~that sell energy to California retail customers, to adhere to~~  
24 ~~enforceable standards and protocols to protect the reliability of the~~  
25 ~~interconnected regional transmission and distribution systems.~~

26 ~~(k) In order to achieve meaningful wholesale and retail~~  
27 ~~competition in the electric generation market, it is essential to do~~  
28 ~~all of the following:~~

29 ~~(1) Separate monopoly utility transmission functions from~~  
30 ~~competitive generation functions, through development of~~  
31 ~~independent, third-party control of transmission access and~~  
32 ~~pricing.~~

33 ~~(2) Permit all customers to choose from among competing~~  
34 ~~suppliers of electric power.~~

35 ~~(3) Provide customers and suppliers with open,~~  
36 ~~nondiscriminatory, and comparable access to transmission and~~  
37 ~~distribution services.~~

38 ~~(l) The commission has properly concluded that:~~



1 ~~(1) This competition will best be introduced by the creation of~~  
2 ~~an Independent System Operator and an independent Power~~  
3 ~~Exchange.~~

4 ~~(2) Generation of electricity should be open to competition.~~

5 ~~(3) There is a need to ensure that no participant in these new~~  
6 ~~market institutions has the ability to exercise significant market~~  
7 ~~power so that operation of the new market institutions would be~~  
8 ~~distorted.~~

9 ~~(4) These new market institutions should commence~~  
10 ~~simultaneously with the phase in of customer choice, and the~~  
11 ~~public will be best served if these institutions and the~~  
12 ~~nonbypassable transition cost recovery mechanism referred to in~~  
13 ~~subdivisions (s) to (w), inclusive, are in place simultaneously and~~  
14 ~~no later than January 1, 1998.~~

15 ~~(m) It is the intention of the Legislature that California's~~  
16 ~~publicly owned electric utilities and investor-owned electric~~  
17 ~~utilities should commit control of their transmission facilities to~~  
18 ~~the Independent System Operator. These utilities should jointly~~  
19 ~~advocate to the Federal Energy Regulatory Commission a pricing~~  
20 ~~methodology for the Independent System Operator that results in~~  
21 ~~an equitable return on capital investment in transmission facilities~~  
22 ~~for all Independent System Operator participants.~~

23 ~~(n) Opportunities to acquire electric power in the competitive~~  
24 ~~market must be available to California consumers as soon as~~  
25 ~~practicable, but no later than January 1, 1998, so that all customers~~  
26 ~~can share in the benefits of competition.~~

27 ~~(o) Under the existing regulatory framework, California's~~  
28 ~~electrical corporations were granted franchise rights to provide~~  
29 ~~electricity to consumers in their service territories.~~

30 ~~(p) Consistent with federal and state policies, California~~  
31 ~~electrical corporations invested in power plants and entered into~~  
32 ~~contractual obligations in order to provide reliable electrical~~  
33 ~~service on a nondiscriminatory basis to all consumers within their~~  
34 ~~service territories who requested service.~~

35 ~~(q) The cost of these investments and contractual obligations~~  
36 ~~are currently being recovered in electricity rates charged by~~  
37 ~~electrical corporations to their consumers.~~

38 ~~(r) Transmission and distribution of electric power remain~~  
39 ~~essential services imbued with the public interest that are provided~~



1 ~~over facilities owned and maintained by the state's electrical~~  
2 ~~corporations.~~

3 ~~(s) It is proper to allow electrical corporations an opportunity~~  
4 ~~to continue to recover, over a reasonable transition period, those~~  
5 ~~costs and categories of costs for generation-related assets and~~  
6 ~~obligations, including costs associated with any subsequent~~  
7 ~~renegotiation or buyout of existing generation-related contracts,~~  
8 ~~that the commission, prior to December 20, 1995, had authorized~~  
9 ~~for collection in rates and that may not be recoverable in market~~  
10 ~~prices in a competitive generation market, and appropriate~~  
11 ~~additions incurred after December 20, 1995, for capital additions~~  
12 ~~to generating facilities existing as of December 20, 1995, that the~~  
13 ~~commission determines are reasonable and should be recovered,~~  
14 ~~provided that the costs are necessary to maintain those facilities~~  
15 ~~through December 31, 2001. In determining the costs to be~~  
16 ~~recovered, it is appropriate to net the negative value of above~~  
17 ~~market assets against the positive value of below market assets.~~

18 ~~(t) The transition to a competitive generation market should be~~  
19 ~~orderly, protect electric system reliability, provide the investors in~~  
20 ~~these electrical corporations with a fair opportunity to fully~~  
21 ~~recover the costs associated with commission approved~~  
22 ~~generation-related assets and obligations, and be completed as~~  
23 ~~expeditiously as possible.~~

24 ~~(u) The transition to expanded customer choice, competitive~~  
25 ~~markets, and performance based ratemaking as described in~~  
26 ~~Decision 95-12-063, as modified by Decision 96-01-009, of the~~  
27 ~~Public Utilities Commission, can produce hardships for~~  
28 ~~employees who have dedicated their working lives to utility~~  
29 ~~employment. It is preferable that any necessary reductions in the~~  
30 ~~utility workforce directly caused by electrical restructuring, be~~  
31 ~~accomplished through offers of voluntary severance, retraining,~~  
32 ~~early retirement, outplacement, and related benefits. Whether~~  
33 ~~workforce reductions are voluntary or involuntary, reasonable~~  
34 ~~costs associated with these sorts of benefits should be included in~~  
35 ~~the competition transition charge.~~

36 ~~(v) Charges associated with the transition should be collected~~  
37 ~~over a specific period of time on a nonbypassable basis and in a~~  
38 ~~manner that does not result in an increase in rates to customers of~~  
39 ~~electrical corporations. In order to insulate the policy of~~  
40 ~~nonbypassability against incursions, if exemptions from the~~



1 ~~competition transition charge are granted, a firewall shall be~~  
2 ~~created that segregates recovery of the cost of exemptions as~~  
3 ~~follows:~~

4 ~~(1) The cost of the competition transition charge exemptions~~  
5 ~~granted to members of the combined class of residential and small~~  
6 ~~commercial customers shall be recovered only from those~~  
7 ~~customers.~~

8 ~~(2) The cost of the competition transition charge exemptions~~  
9 ~~granted to members of the combined class of customers other than~~  
10 ~~residential and small commercial customers shall be recovered~~  
11 ~~only from those customers. The commission shall retain existing~~  
12 ~~cost allocation authority provided that the firewall and rate freeze~~  
13 ~~principles are not violated.~~

14 ~~(w) It is the intent of the Legislature to require and enable~~  
15 ~~electrical corporations to monetize a portion of the competition~~  
16 ~~transition charge for residential and small commercial consumers~~  
17 ~~so that these customers will receive rate reductions of no less than~~  
18 ~~10 percent for 1998 continuing through 2002. Electrical~~  
19 ~~corporations shall, by June 1, 1997, or earlier, secure the means to~~  
20 ~~finance the competition transition charge by applying~~  
21 ~~concurrently for financing orders from the Public Utilities~~  
22 ~~Commission and for rate reduction bonds from the California~~  
23 ~~Infrastructure and Economic Development Bank.~~

24 ~~(x) California's public utility electrical corporations provide~~  
25 ~~substantial benefits to all Californians, including employment and~~  
26 ~~support of the state's economy. Restructuring the electric services~~  
27 ~~industry pursuant to the act that added this chapter will continue~~  
28 ~~these benefits, and will also offer meaningful and immediate rate~~  
29 ~~reductions for residential and small commercial customers, and~~  
30 ~~facilitate competition in the supply of electric power.~~

31 *SEC. 2. Section 330 is added to the Public Utilities Code, to*  
32 *read:*

33 *330. The act adding this section shall be known and cited as*  
34 *the Repeal of Electricity Deregulation Act of 2003.*

35 *SEC. 3. Section 330.1 is added to the Public Utilities Code, to*  
36 *read:*

37 *330.1. The Legislature finds and declares all of the following:*

38 *(a) Electricity is a unique good in modern society, not a simple*  
39 *commodity. Access to safe, reliable and affordable electrical*



1 *service is indispensable to the health, comfort, and well-being of*  
2 *every person and business, and should be regarded as a right.*

3 *(b) Unlike commodities, electricity must be manufactured at*  
4 *the same instant it is consumed, it cannot be effectively stored, and*  
5 *adequate generating and transmission capacity must be available*  
6 *at all times to meet any level of demand at any location. Shortages,*  
7 *even for only a few minutes, cause blackouts. This combination of*  
8 *circumstances creates unparalleled opportunities for*  
9 *discrimination and market manipulation.*

10 *(c) Reliable electrical service is of utmost importance to the*  
11 *safety, health, and welfare of the state's citizenry and economy. It*  
12 *is the intent of the Legislature that regulation of the electrical*  
13 *industry should ensure the reliability of electrical service to*  
14 *end-users, including the reliability of the interconnected regional*  
15 *transmission systems, and provide strong coordination and*  
16 *enforceable protocols for all users of the electricity grid.*

17 *(d) Accordingly, the electrical industry must be*  
18 *comprehensively regulated, by state and federal agencies for*  
19 *investor-owned utilities, or by customer-controlled structures for*  
20 *public and cooperative utilities. The people of California expect*  
21 *effective government and utility action to ensure reliable service*  
22 *at reasonable rates.*

23 *(e) Electrical service in California was restructured, or*  
24 *deregulated, by orders of the California Public Utilities*  
25 *Commission (CPUC) and the Federal Energy Regulatory*  
26 *Commission (FERC), and actions of the California Independent*  
27 *System Operator pursuant to FERC authorization, which ordered*  
28 *separation of the transmission and generation elements of*  
29 *electrical service resulting in: (1) divestiture of powerplants that*  
30 *had been built and dedicated to serve California consumers at just*  
31 *and reasonable regulated rates; (2) the separation of wholesale*  
32 *and retail transmission service by the utility owners of the*  
33 *transmission facilities; (3) uses of the transmission grid designed*  
34 *to enable sellers to undermine grid reliability in the pursuit of high*  
35 *prices through the exercise of market power.*

36 *(f) The California Legislature confirmed the CPUC orders in*  
37 *some respects through the enactment of Assembly Bill 1890*  
38 *(Chapter 854 of the Statutes of 1996), and in so doing, codified the*  
39 *basic tenants of deregulation of electrical service in California.*



1 (g) *As the direct result of deregulation of the electrical industry,*  
2 *electricity markets in California have been grossly dysfunctional*  
3 *for the past several years, characterized by manipulation and*  
4 *abuse of seller market power in wholesale electricity markets,*  
5 *withholding of vital energy supplies and other illegal conduct that*  
6 *resulted in unjust and unreasonable wholesale prices for*  
7 *electricity, causing elevated retail rates and repeated actual and*  
8 *threatened interruptions of electrical service.*

9 (h) *As the direct result of the deregulation of the wholesale*  
10 *electrical market and the dysfunctional service arrangements,*  
11 *residential and business consumers have endured the single*  
12 *largest retail rate increase in the state's history, the state's largest*  
13 *electrical corporation filed for bankruptcy, a second electrical*  
14 *corporation was on the verge of insolvency, and reliable electrical*  
15 *service was repeatedly jeopardized. It will take many years for the*  
16 *economic effects of these calamities to be overcome.*

17 (i) *During the period from May 2000 through June 2001,*  
18 *California was beset by actual and threatened blackouts due to*  
19 *supply withholding by wholesale generators and electricity*  
20 *traders, using both direct and indirect means to make electricity*  
21 *unavailable to the people of California.*

22 (j) *As the direct result of deregulation of the electrical supply*  
23 *market, California was forced to rely entirely on unregulated*  
24 *private investment decisions to provide sufficient electrical*  
25 *generation to satisfy the demand for electricity. As a direct result*  
26 *of deregulation of the electrical supply market, California has*  
27 *experienced the boom and bust cycle in the construction of new*  
28 *electrical power plants that characterizes any unregulated market.*  
29 *The wholesale electricity generation sector, subject only to*  
30 *ineffective or nonexistent regulation by FERC, is now failing to*  
31 *invest in new generation needed by California.*

32 (k) *As the direct result of deregulation of the electrical utility*  
33 *industry, California's traditional commitments to renewable*  
34 *energy sources and investments in improved energy efficiency were*  
35 *weakened. In order to fulfill the mandates of Senate Bill 1078*  
36 *(Chapter 516 of the Statutes of 2002), which is necessary to protect*  
37 *California's environment, public utilities must be able to*  
38 *implement the California Renewables Portfolio Standard*  
39 *Program.*



1 (l) California electricity consumers will inevitably provide the  
2 ultimate credit support for any new investment in facilities for the  
3 provision of electrical service in the future either through  
4 rate-based utility investments or through long-term contracts with  
5 other suppliers. Protecting the interests of consumers by ensuring  
6 that investment is prudent and cost effective should be the highest  
7 priority of California regulatory policy and action.

8 (m) It is in the state's interest to have functional creditworthy  
9 public utilities providing essential electrical service to California  
10 consumers at just and reasonable rates and to limit the exposure  
11 of California consumers to dysfunctional deregulated wholesale  
12 electricity markets.

13 (n) Fully empowering public utilities and state entities and  
14 agencies, including the CPUC, the California Consumer Power  
15 and Conservation Financing Authority, the Independent System  
16 Operator, and the Department of Water Resources to mitigate the  
17 exercise of market power by sellers of electricity, reduce prices for  
18 electricity, and restore electrical grid reliability, is in the public  
19 interest. To the extent that unbundling the elements of electrical  
20 service, including transmission of electricity provided to retail  
21 consumers, weakens the ability of California to protect its people,  
22 such unbundling should be reconsidered and reversed.

23 (o) Direct transactions, popularly termed direct access, as a  
24 means for obtaining retail electrical service, has resulted in  
25 massive subsidies of some retail customers by others. Direct access  
26 has resulted in increased costs for bundled service customers of  
27 electrical corporations, while failing to provide justifiable  
28 reduced costs for direct access customers. Direct access  
29 undermines the ability of public utilities to plan and invest to meet  
30 their obligation to serve, by making uncertain the amount of  
31 customer demand that must be met. Direct access is a part of  
32 electrical industry deregulation that should end as soon as existing  
33 direct transaction contracts expire.

34 (p) The expectations and assumption that deregulation of the  
35 electrical utility industry would provide consumer benefits,  
36 enhanced reliability, lower rates and technological innovation,  
37 have proven illusory. Instead, consumers have been and will be  
38 forced to pay for massive costs incurred as a result of deregulation,  
39 and have suffered from unprecedented degradation in the  
40 reliability of electricity supply. Public utilities have been forced to



1 *near financial ruin or to seek bankruptcy protection. Certain*  
2 *merchant generators and marketers are in severe financial*  
3 *distress.*

4 *(q) It is in the public interest to repudiate the failed policies of*  
5 *electrical utility deregulation, and to assure the people of*  
6 *California that electrical service will be reliable and affordable in*  
7 *the future through effective regulation.*

8 *SEC. 4. Section 330.2 is added to the Public Utilities Code, to*  
9 *read:*

10 *330.2. It is the intent of the Legislature to achieve effective*  
11 *regulation of California's public utilities and to pursue the*  
12 *following policy goals:*

13 *(a) Restore and affirm the public utility's obligation to serve all*  
14 *of its customers.*

15 *(b) Eliminate opportunities for market manipulation by*  
16 *stopping electric plant divestiture and authorizing cost-of-service*  
17 *construction of new electric plants and public utility wholesale*  
18 *electricity procurement, while providing a fair opportunity for*  
19 *reasonable returns on prudent investment.*

20 *(c) Ensure electricity supply reliability and deter market*  
21 *manipulation by establishing and enforcing effective standards for*  
22 *maintenance and operation of electric plants that serve*  
23 *California.*

24 *(d) Provide for cost-effective construction, operation and*  
25 *maintenance of the electrical transmission grid and distribution*  
26 *system in the public interest, while providing a fair opportunity for*  
27 *reasonable returns on prudent investment.*

28 *(e) Protect consumers from slamming, cramming and fraud by*  
29 *requiring metering, billing, collection, and customer service to be*  
30 *provided by public utilities, under regulation by the CPUC.*

31 *(f) Preserve and renew the skilled public utility workforce by*  
32 *ending employee layoffs, providing reasonable wages and working*  
33 *conditions, and ensuring that the public utilities have an*  
34 *adequately sized and trained workforce.*

35 *(g) Establish a comprehensive integrated resource planning*  
36 *process under regulation, in order to ensure resource adequacy,*  
37 *including investing in cost-effective energy efficiency and*  
38 *conservation programs, and increasing the proportion of*  
39 *electricity provided from cost-effective renewable resources.*



1 (h) Simplify corporate ownership of electrical corporations by  
2 requiring transparent forms of corporate ownership of public  
3 utilities, by improving accountability for holding company  
4 requirements in state law and by seeking enforcement of the Public  
5 Utilities Holding Company Act of 1935 (Ch. 2C (commencing with  
6 Sec. 79), Title 15, U.S.C.).

7 (i) Provide for fair cost allocation among customers in just and  
8 reasonable rates fixed through open public processes, not  
9 discriminatory retail choice or direct access transactions.

10 (j) Restore consumer and investor confidence in electrical  
11 corporation financial soundness and pricing fairness by making  
12 costs transparent and establishing and enforcing accounting  
13 standards.

14 (k) Assure universal service by assuring affordable rates and,  
15 among other measures, providing low-income discounts with  
16 effective enrollment programs.

17 (l) Provide an open regulatory forum where all persons  
18 affected by public utility service and rates, can observe and  
19 participate in the decisionmaking process.

20 SEC. 5. Section 330.4 is added to the Public Utilities Code, to  
21 read:

22 330.4. The actions of the commission pursuant to this part, as  
23 they affect electrical service, shall be consistent with the findings  
24 and declarations contained in this article.

25 SEC. 6. Section 330.6 is added to the Public Utilities Code, to  
26 read:

27 330.6. (a) Electrical corporations and gas corporations that  
28 serve retail customers, because of their status as public utilities  
29 under the California Constitution, have an obligation to provide  
30 those customers with adequate service at just and reasonable  
31 rates.

32 (b) The obligation of electrical corporations and gas  
33 corporations, to provide adequate service at just and reasonable  
34 rates, includes a duty of care, a duty of loyalty, a duty of disclosure,  
35 and a duty to use best efforts by the corporation's management, to  
36 maintain safe, healthful, and affordable basic service for end-use  
37 customers, consistent with the statutes of the state and the rules,  
38 regulations, decisions, and orders of the commission.

39 (c) The commission, on behalf of end-use customers, shall  
40 ensure that public utility employees and investors are afforded the



1 means to carry out this obligation to serve, specifically including  
2 reasonable compensation for employees and fair sharing of risks  
3 and rewards for investors.

4 *SEC. 7. Section 334 of the Public Utilities Code is repealed.*

5 ~~334. The Legislature finds and declares that in order to ensure  
6 the success of electric industry restructuring, in the transition to a  
7 new market structure it is important to ensure a reliable supply of  
8 electricity. Reliable electric service is of paramount importance to  
9 the safety, health, and comfort of the people of California.  
10 Transmission connections between electric utilities allow them to  
11 share generation resources and reduce the number of powerplants  
12 necessary to maintain a reliable system. The connections between  
13 utilities also create exposure to events that can cause widespread  
14 and extended transmission and service outages that reach far  
15 beyond the originating utility service area. California utilities and  
16 those in the western United States voluntarily adhere to reliability  
17 standards developed by the Western Systems Coordinating  
18 Council. The economic cost of extended electricity outages, such  
19 as those that occurred in California and throughout the Western  
20 Systems Coordinating Council on July 2, 1996, and August 10,  
21 1996, to California's residential, commercial, agricultural, and  
22 industrial customers is significant. The proposed restructuring of  
23 the electricity industry would transfer responsibility for ensuring  
24 short- and long-term reliability away from electric utilities and  
25 regulatory bodies to the Independent System Operator and various  
26 market-based mechanisms. The Legislature has an interest in  
27 ensuring that the change in the locus of responsibility for reliability  
28 does not expose California citizens to undue economic risk in  
29 connection with system reliability.~~

30 *SEC. 8. Section 335 of the Public Utilities Code is amended*  
31 *to read:*

32 335. In order to ensure that the interests of the people of  
33 California are served, a five-member Electricity Oversight Board  
34 is hereby created as provided in Section 336. For purposes of this  
35 chapter, any reference to the Oversight Board shall mean the  
36 Electricity Oversight Board. Its functions shall be all of the  
37 following:

38 (a) To oversee the Independent System Operator ~~and the Power~~  
39 ~~Exchange.~~



1 (b) ~~To determine the composition and terms of service and to~~  
2 ~~exercise the exclusive right to decline to confirm the appointments~~  
3 ~~of specific members of the governing board of the Power~~  
4 ~~Exchange.~~

5 ~~(e) To serve as an appeal board for majority decisions of the~~  
6 ~~Independent System Operator governing board, as they relate to~~  
7 ~~matters subject to exclusive state jurisdiction, as specified in~~  
8 ~~Section 339.~~

9 ~~(d) Those members of the Power Exchange governing board~~  
10 ~~whose appointments the Oversight Board has the exclusive right~~  
11 ~~to decline to confirm include proposed governing board members~~  
12 ~~representing agricultural end users, industrial end users,~~  
13 ~~commercial end users, residential end users, end users at large,~~  
14 ~~nonmarket participants, and public interest groups.~~

15 ~~(e)~~

16 (c) To investigate any matter related to the wholesale market  
17 for electricity to ensure that the interests of California's citizens  
18 and consumers are served, protected, and represented in relation  
19 to the availability of ~~electric~~ *electrical* transmission and  
20 generation and related costs, during periods of peak demand.

21 *SEC. 9. Section 338 of the Public Utilities Code is repealed.*

22 ~~338. The Oversight Board shall have the exclusive right to~~  
23 ~~approve procedures and the qualifications for Power Exchange~~  
24 ~~governing board members specified in subdivision (d) of Section~~  
25 ~~335, all of whom shall be required to be electricity customers in~~  
26 ~~the area served by the Power Exchange. The Power Exchange~~  
27 ~~governing board shall include, but not be limited to,~~  
28 ~~representatives of investor-owned electric distribution companies,~~  
29 ~~publicly owned electric distribution companies, nonutility~~  
30 ~~generators, public buyers and sellers, private buyers and sellers,~~  
31 ~~industrial end users, commercial end users, residential end users,~~  
32 ~~agricultural end users, public interest groups, and nonmarket~~  
33 ~~participant representatives. The structural composition of the~~  
34 ~~Power Exchange governing board existing on July 1, 1999, shall~~  
35 ~~remain in effect until an agreement with a participating state is~~  
36 ~~legally in effect. However, prior to such an agreement, California~~  
37 ~~shall retain the right to change the Power Exchange governing~~  
38 ~~board into a nonstakeholder board. In the event of such a~~  
39 ~~legislative change, revised bylaws shall be filed with the Federal~~



1 ~~Energy Regulatory Commission under Section 205 of the Federal~~  
2 ~~Power Act (16 U.S.C.A. Sec. 824d).~~

3 *SEC. 10. Section 341.1 of the Public Utilities Code is*  
4 *repealed.*

5 ~~341.1. Regulations adopted within 120 days of the effective~~  
6 ~~date of this section may be adopted as emergency regulations in~~  
7 ~~accordance with Chapter 3.5 (commencing with Section 11340) of~~  
8 ~~the Government Code, and for the purposes of that chapter,~~  
9 ~~including Section 11349.6 of the Government Code, the adoption~~  
10 ~~of the regulations shall be considered by the Office of~~  
11 ~~Administrative Law to be necessary for the immediate~~  
12 ~~preservation of the public peace, health, safety, and general~~  
13 ~~welfare.~~

14 *SEC. 11. Section 341.5 of the Public Utilities Code is*  
15 *repealed.*

16 ~~341.5. (a) The Independent System Operator and Power~~  
17 ~~Exchange bylaws shall contain provisions that identify those~~  
18 ~~matters specified in subdivision (b) of Section 339 as matters~~  
19 ~~within state jurisdiction. The bylaws shall also contain provisions~~  
20 ~~which state that California's bylaws approval function with~~  
21 ~~respect to the matters specified in subdivision (b) of Section 339~~  
22 ~~shall not preclude the Federal Energy Regulatory Commission~~  
23 ~~from taking any action necessary to address undue discrimination~~  
24 ~~or other violations of the Federal Power Act (16 U.S.C.A. Sec.~~  
25 ~~791a et seq.) or to exercise any other commission responsibility~~  
26 ~~under the Federal Power Act. In taking any such action, the Federal~~  
27 ~~Energy Regulatory Commission shall give due respect to~~  
28 ~~California's jurisdictional interests in the functions of the~~  
29 ~~Independent System Operator and Power Exchange and to attempt~~  
30 ~~to accommodate state interests to the extent those interests are not~~  
31 ~~inconsistent with the Federal Energy Regulatory Commission's~~  
32 ~~statutory responsibilities. The bylaws shall state that any future~~  
33 ~~agreement regarding the apportionment of the Independent~~  
34 ~~System Operator and Power Exchange board appointment~~  
35 ~~function among participating states associated with the expansion~~  
36 ~~of the Independent System Operator and Power Exchange into~~  
37 ~~multistate entities shall be filed with the Federal Energy~~  
38 ~~Regulatory Commission pursuant to Section 205 of the Federal~~  
39 ~~Power Act (16 U.S.C.A. Sec. 824d).~~



1 ~~(b) Any necessary bylaw changes to implement the provisions~~  
2 ~~of Section 335, 337, 338, 339, or subdivision (a) of this section;~~  
3 ~~or changes required pursuant to an agreement as contemplated by~~  
4 ~~subdivision (a) of this section with a participating state for a~~  
5 ~~regional organization, shall be effective upon approval of the~~  
6 ~~respective governing boards and the Oversight Board and~~  
7 ~~acceptance for filing by the Federal Energy Regulatory~~  
8 ~~Commission.~~

9 *SEC. 12. Section 346 of the Public Utilities Code is repealed.*

10 ~~346. The Independent System Operator shall immediately~~  
11 ~~participate in all relevant Federal Energy Regulatory Commission~~  
12 ~~proceedings. The Independent System Operator shall ensure that~~  
13 ~~additional filings at the Federal Energy Regulatory Commission~~  
14 ~~request confirmation of the relevant provisions of this chapter and~~  
15 ~~seek the authority needed to give the Independent System Operator~~  
16 ~~the ability to secure generating and transmission resources~~  
17 ~~necessary to guarantee achievement of planning and operating~~  
18 ~~reserve criteria no less stringent than those established by the~~  
19 ~~Western Systems Coordinating Council and the North American~~  
20 ~~Electric Reliability Council.~~

21 *SEC. 13. Section 348 of the Public Utilities Code is repealed.*

22 ~~348. The Independent System Operator shall adopt~~  
23 ~~inspection, maintenance, repair, and replacement standards for the~~  
24 ~~transmission facilities under its control no later than September 30,~~  
25 ~~1997. The standards, which shall be performance or prescriptive~~  
26 ~~standards, or both, as appropriate, for each substantial type of~~  
27 ~~transmission equipment or facility, shall provide for high quality,~~  
28 ~~safe, and reliable service. In adopting its standards, the~~  
29 ~~Independent System Operator shall consider: cost, local~~  
30 ~~geography and weather, applicable codes, national electric~~  
31 ~~industry practices, sound engineering judgment, and experience.~~  
32 ~~The Independent System Operator shall also adopt standards for~~  
33 ~~reliability, and safety during periods of emergency and disaster.~~  
34 ~~The Independent System Operator shall report to the Oversight~~  
35 ~~Board, at such times as the Oversight Board may specify, on the~~  
36 ~~development and implementation of the standards in relation to~~  
37 ~~facilities under the operational control of the Independent System~~  
38 ~~Operator. The Independent System Operator shall require each~~  
39 ~~transmission facility owner or operator to report annually on its~~



1 compliance with the standards. That report shall be made available  
2 to the public.

3 *SEC. 14. Section 350 of the Public Utilities Code is repealed.*

4 350. ~~The Independent System Operator, in consultation with~~  
5 ~~the California Energy Resources Conservation and Development~~  
6 ~~Commission, the Public Utilities Commission, the Western~~  
7 ~~Systems Coordinating Council, and concerned regulatory~~  
8 ~~agencies in other western states, shall within six months after the~~  
9 ~~Federal Energy Regulatory Commission approval of the~~  
10 ~~Independent System Operator, provide a report to the Legislature~~  
11 ~~and to the Oversight Board that does the following:~~

12 ~~(a) Conducts an independent review and assessment of Western~~  
13 ~~Systems Coordinating Council operating reliability criteria.~~

14 ~~(b) Quantifies the economic cost of major transmission outages~~  
15 ~~relating to the Pacific Intertie, Southwest Power Link, DC link,~~  
16 ~~and other important high voltage lines that carry power both into~~  
17 ~~and from California.~~

18 ~~(c) Identifies the range of cost-effective options that would~~  
19 ~~prevent or mitigate the consequences of major transmission~~  
20 ~~outages.~~

21 ~~(d) Identifies communication protocols that may be needed to~~  
22 ~~be established to provide advance warning of incipient problems.~~

23 ~~(e) Identifies the need for additional generation reserves and~~  
24 ~~other voltage support equipment, if any, or other resources that~~  
25 ~~may be necessary to carry out its functions.~~

26 ~~(f) Identifies transmission capacity additions that may be~~  
27 ~~necessary at certain times of the year or under certain conditions.~~

28 ~~(g) Assesses the adequacy of current and prospective~~  
29 ~~institutional provisions for the maintenance of reliability.~~

30 ~~(h) Identifies mechanisms to enforce transmission~~  
31 ~~right-of-way maintenance.~~

32 ~~(i) Contains recommendations regarding cost-beneficial~~  
33 ~~improvements to electric system reliability for the citizens of~~  
34 ~~California.~~

35 *SEC. 15. Section 352 of the Public Utilities Code is amended*  
36 *to read:*

37 352. The Independent System Operator may not enter into a  
38 multistate entity or a regional organization as authorized in Section  
39 ~~359 regional transmission organization~~ unless that entry is



1 approved by the Oversight Board *and the Legislature by*  
2 *concurrent resolution.*

3 *SEC. 16. Section 355 of the Public Utilities Code is repealed.*

4 ~~355. The Power Exchange shall provide an efficient~~  
5 ~~competitive auction, open on a nondiscriminatory basis to all~~  
6 ~~suppliers, that meets the loads of all exchange customers at~~  
7 ~~efficient prices.~~

8 *SEC. 17. Section 356 of the Public Utilities Code is repealed.*

9 ~~356. The Power Exchange governing board may form~~  
10 ~~appropriate technical advisory committees comprised of market~~  
11 ~~and nonmarket participants to advise the governing board on~~  
12 ~~relevant issues.~~

13 *SEC. 18. Section 359 of the Public Utilities Code is repealed.*

14 ~~359. (a) It is the intent of the Legislature to provide for the~~  
15 ~~evolution of the Independent System Operator and the Power~~  
16 ~~Exchange into regional organizations to promote the development~~  
17 ~~of regional electricity transmission markets in the western states~~  
18 ~~and to improve the access of consumers served by the Independent~~  
19 ~~System Operator and the Power Exchange to those markets.~~

20 ~~(b) The preferred means by which the voluntary evolution~~  
21 ~~described in subdivision (a) should occur is through the adoption~~  
22 ~~of a regional compact or other comparable agreement among~~  
23 ~~cooperating party states, the retail customers of which states would~~  
24 ~~reside within the geographic territories served by the Independent~~  
25 ~~System Operator and the Power Exchange.~~

26 ~~(c) The agreement described in subdivision (b) should provide~~  
27 ~~for all of the following:~~

28 ~~(1) An equitable process for the appointment or confirmation~~  
29 ~~by party states of members of the governing boards of the~~  
30 ~~Independent System Operator and the Power Exchange.~~

31 ~~(2) A respecification of the size, structure, representation,~~  
32 ~~eligible membership, nominating procedures, and member terms~~  
33 ~~of service of the governing boards of the Independent System~~  
34 ~~Operator and the Power Exchange.~~

35 ~~(3) Mechanisms by which each party state, jointly or~~  
36 ~~separately, can oversee effectively the actions of the Independent~~  
37 ~~System Operator and the Power Exchange as those actions relate~~  
38 ~~to the assurance of electricity system reliability within the party~~  
39 ~~state and to matters that affect electricity sales to the retail~~  
40 ~~customers of the party state or otherwise affect the general welfare~~



1 of the electricity consumers and the general public of the party  
2 state.

3 (4) ~~The adherence by publicly owned and investor-owned~~  
4 ~~utilities located in party states to enforceable standards and~~  
5 ~~protocols to protect the reliability of the interconnected regional~~  
6 ~~transmission and distribution systems.~~

7 *SEC. 19. Section 360 of the Public Utilities Code is repealed.*

8 ~~360. The commission shall ensure that existing, and if~~  
9 ~~necessary, additional filings at the Federal Energy Regulatory~~  
10 ~~Commission request confirmation of the relevant provisions of~~  
11 ~~this chapter and seek the authority needed to give the Independent~~  
12 ~~System Operator the ability to secure generating and transmission~~  
13 ~~resources necessary to guarantee achievement of planning and~~  
14 ~~operating reserve criteria no less stringent than those established~~  
15 ~~by the Western Systems Coordinating Council and the North~~  
16 ~~American Electric Reliability Council.~~

17 *SEC. 20. Section 361 of the Public Utilities Code is repealed.*

18 ~~361. The commission shall ensure that any funds secured by~~  
19 ~~the restructuring trusts established for the purposes of developing~~  
20 ~~the Independent System Operator and the Power Exchange shall~~  
21 ~~be placed at the disposal of the Independent System Operator and~~  
22 ~~the Power Exchange respectively.~~

23 *SEC. 21. Section 364 of the Public Utilities Code is amended*  
24 *to read:*

25 364. (a) The commission shall adopt *and periodically review*  
26 *and update* inspection, maintenance, repair, and replacement  
27 standards for the distribution *and transmission* systems of  
28 investor-owned electric utilities ~~no later than March 31, 1997~~. The  
29 standards, ~~which shall be performance or prescriptive standards,~~  
30 ~~or both, as appropriate,~~ for each substantial type of distribution  
31 *and transmission* equipment or facility, shall provide for high  
32 quality, safe and reliable service.

33 (b) In setting its standards, the commission shall consider: cost,  
34 local geography and weather, applicable codes, national electric  
35 industry practices, sound engineering judgment, and experience.  
36 The commission shall also adopt standards for operation,  
37 reliability, and safety during periods of emergency and disaster.  
38 The commission shall require each utility to report annually on its  
39 compliance with the standards. That report shall be made available  
40 to the public.



1 (c) The commission shall conduct a review to determine  
2 whether the standards prescribed in this section have been met. If  
3 the commission finds that the standards have not been met, the  
4 commission may order appropriate sanctions, including penalties  
5 in the form of rate reductions or monetary fines. The review shall  
6 be performed after every major outage. Any money collected  
7 pursuant to this subdivision shall be used to offset funding for the  
8 California Alternative Rates for Energy Program.

9 *SEC. 22. Section 365 of the Public Utilities Code is repealed.*

10 ~~365. The actions of the commission pursuant to this chapter~~  
11 ~~shall be consistent with the findings and declarations contained in~~  
12 ~~Section 330. In addition, the commission shall do all of the~~  
13 ~~following:~~

14 ~~(a) Facilitate the efforts of the state's electrical corporations to~~  
15 ~~develop and obtain authorization from the Federal Energy~~  
16 ~~Regulatory Commission for the creation and operation of an~~  
17 ~~Independent System Operator and an independent Power~~  
18 ~~Exchange, for the determination of which transmission and~~  
19 ~~distribution facilities are subject to the exclusive jurisdiction of the~~  
20 ~~commission, and for approval, to the extent necessary, of the cost~~  
21 ~~recovery mechanism established as provided in Sections 367 to~~  
22 ~~376, inclusive. The commission shall also participate fully in all~~  
23 ~~proceedings before the Federal Energy Regulatory Commission in~~  
24 ~~connection with the Independent System Operator and the~~  
25 ~~independent Power Exchange, and shall encourage the Federal~~  
26 ~~Energy Regulatory Commission to adopt protocols and~~  
27 ~~procedures that strengthen the reliability of the interconnected~~  
28 ~~transmission grid, encourage all publicly owned utilities in~~  
29 ~~California to become full participants, and maximize~~  
30 ~~enforceability of such protocols and procedures by all market~~  
31 ~~participants.~~

32 ~~(b) (1) Authorize direct transactions between electricity~~  
33 ~~suppliers and end use customers, subject to implementation of the~~  
34 ~~nonbypassable charge referred to in Sections 367 to 376, inclusive.~~  
35 ~~Direct transactions shall commence simultaneously with the start~~  
36 ~~of an Independent System Operator and Power Exchange referred~~  
37 ~~to in subdivision (a). The simultaneous commencement shall~~  
38 ~~occur as soon as practicable, but no later than January 1, 1998. The~~  
39 ~~commission shall develop a phase-in schedule at the conclusion of~~  
40 ~~which all customers shall have the right to engage in direct~~



1 ~~transactions. Any phase-in of customer eligibility for direct~~  
2 ~~transactions ordered by the commission shall be equitable to all~~  
3 ~~customer classes and accomplished as soon as practicable,~~  
4 ~~consistent with operational and other technological~~  
5 ~~considerations, and shall be completed for all customers by~~  
6 ~~January 1, 2002.~~

7 ~~(2) Customers shall be eligible for direct access irrespective of~~  
8 ~~any direct access phase-in implemented pursuant to this section if~~  
9 ~~at least one-half of that customer's electrical load is supplied by~~  
10 ~~energy from a renewable resource provider certified pursuant to~~  
11 ~~Section 383, provided however that nothing in this section shall~~  
12 ~~provide for direct access for electric consumers served by~~  
13 ~~municipal utilities unless so authorized by the governing board of~~  
14 ~~that municipal utility.~~

15 *SEC. 23. Section 365.5 of the Public Utilities Code is*  
16 *repealed.*

17 ~~365.5. Nothing in this chapter shall prevent the commission~~  
18 ~~from exercising its authority to investigate a process for~~  
19 ~~certification and regulation of the rates, charges, terms, and~~  
20 ~~conditions of default service. If the commission determines that a~~  
21 ~~process for certification and regulation of default service is in the~~  
22 ~~public interest, the commission shall submit its findings and~~  
23 ~~recommendations to the Legislature for approval.~~

24 *SEC. 24. Section 366 of the Public Utilities Code is repealed.*

25 ~~366. (a) The commission shall take actions as needed to~~  
26 ~~facilitate direct transactions between electricity suppliers and~~  
27 ~~end-use customers. Customers shall be entitled to aggregate their~~  
28 ~~electrical loads on a voluntary basis, provided that each customer~~  
29 ~~does so by a positive written declaration. If no positive declaration~~  
30 ~~is made by a customer, that customer shall continue to be served~~  
31 ~~by the existing electrical corporation or its successor in interest,~~  
32 ~~except aggregation by community choice aggregators,~~  
33 ~~accomplished pursuant to Section 366.2.~~

34 ~~(b) Aggregation of customer electrical load shall be authorized~~  
35 ~~by the commission for all customer classes, including, but not~~  
36 ~~limited, to small commercial or residential customers.~~  
37 ~~Aggregation may be accomplished by private market aggregators,~~  
38 ~~special districts, or on any other basis made available by market~~  
39 ~~opportunities and agreeable by positive written declaration by~~  
40 ~~individual consumers, except aggregation by community choice~~



1 ~~aggregators, which shall be accomplished pursuant to Section~~  
2 ~~366.2.~~

3 SEC. 25. Section 366 is added to the Public Utilities Code, to  
4 read:

5 366. (a) It is the intention of the legislature to terminate  
6 direct transactions.

7 (b) Each customer within the geographical distribution area of  
8 an electrical corporation, that purchases electricity at retail, shall  
9 be served by the electrical corporation or its successor in interest,  
10 except as provided in Sections 366.1 and 366.2.

11 (c) If a customer was served by an electric service provider on  
12 April 1, 2003, the customer shall continue to be served by that  
13 electric service provider until the expiration of the customer's  
14 current contract, without extension. Thereafter, the customer shall  
15 be served by the electrical corporation that provides distribution  
16 service.

17 (d) A customer that elects to continue purchasing electricity  
18 from an electric service provider pursuant to subdivision (c), shall  
19 supply the commission with a confidential copy of its current direct  
20 transaction contract.

21 (e) Any customer that the commission has determined in  
22 Decision 02-11-022, is responsible to pay a cost recovery  
23 surcharge as a condition for purchasing electricity pursuant to a  
24 direct transaction, shall continue to pay the cost recovery  
25 surcharge until full collection is achieved.

26 (f) The commission shall report to the Legislature by July 1,  
27 2004, all of the following:

28 (1) Each customer electing to continue purchasing electricity  
29 from an electric service provider pursuant to subdivision (c),  
30 identified numerically.

31 (2) The electrical load serviced under each direct transaction  
32 contract.

33 (3) The expiration date of each direct transaction contract.

34 (g) The commission shall, within 30 days after the expiration  
35 of all direct transaction contracts, report to the Legislature  
36 confirming that direct transactions have terminated.

37 SEC. 26. Section 366.5 of the Public Utilities Code is  
38 repealed.

39 ~~366.5.—(a) No change in the aggregator or supplier of electric~~  
40 ~~power for any small commercial customer may be made until one~~



1 of the following means of confirming the change has been  
2 completed:

3 (1) Independent third-party telephone verification.

4 (2) Receipt of a written confirmation received in the mail from  
5 the consumer after the consumer has received an information  
6 package confirming the agreement.

7 (3) The customer signs a document fully explaining the nature  
8 and effect of the change in service.

9 (4) The customer's consent is obtained through electronic  
10 means, including, but not limited to, computer transactions.

11 (b) No change in the aggregator or provider of electric power  
12 for any residential customer may be made over the telephone until  
13 the change has been confirmed by an independent third-party  
14 verification company, as follows:

15 (1) The third-party verification company shall meet each of the  
16 following criteria:

17 (A) Be independent from the entity that seeks to provide the  
18 new service.

19 (B) Not be directly or indirectly managed, controlled, or  
20 directed, or owned wholly or in part, by an entity that seeks to  
21 provide the new service or by any corporation, firm, or person who  
22 directly or indirectly manages, controls, or directs, or owns more  
23 than 5 percent of the entity.

24 (C) Operate from facilities physically separate from those of  
25 the entity that seeks to provide the new service.

26 (D) Not derive commission or compensation based upon the  
27 number of sales confirmed.

28 (2) The entity seeking to verify the sale shall do so by  
29 connecting the resident by telephone to the third-party verification  
30 company or by arranging for the third-party verification company  
31 to call the customer to confirm the sale.

32 (3) The third-party verification company shall obtain the  
33 customer's oral confirmation regarding the change, and shall  
34 record that confirmation by obtaining appropriate verification  
35 data. The record shall be available to the customer upon request.  
36 Information obtained from the customer through confirmation  
37 shall not be used for marketing purposes. Any unauthorized  
38 release of this information is grounds for a civil suit by the  
39 aggrieved resident against the entity or its employees who are  
40 responsible for the violation.



1 ~~(4) Notwithstanding paragraphs (1), (2), and (3), an aggregator~~  
2 ~~or provider of electric power shall not be required to comply with~~  
3 ~~these provisions when the customer directly calls an aggregator or~~  
4 ~~provider of electric power to change service providers. However,~~  
5 ~~an aggregator or provider of electric power shall not avoid the~~  
6 ~~verification requirements by asking a customer to contact an~~  
7 ~~aggregator or provider of electric power directly to make any~~  
8 ~~change in the service provider.~~

9 ~~(c) No change in the aggregator or provider of electric power~~  
10 ~~for any residential customer may be made via an Internet~~  
11 ~~transaction, in which the customer accesses the website of the~~  
12 ~~aggregator or provider, unless both of the following occur with~~  
13 ~~respect to confirming the change:~~

14 ~~(1) In addition to any other information gathered in the course~~  
15 ~~of the transaction, the customer shall be asked to read and respond~~  
16 ~~to a separate screen that states, in easily legible text, the following:~~

17 ~~“I acknowledge that in entering this transaction I am voluntarily~~  
18 ~~choosing to change the entity that supplies me with my electric~~  
19 ~~power.”~~

20 ~~(2) The separate screen shall offer the customer the option to~~  
21 ~~complete or terminate the transaction.~~

22 ~~(d) (1) No change in the aggregator or provider of electric~~  
23 ~~power for any residential customer may be made via a written~~  
24 ~~transaction unless the change has been confirmed, as provided in~~  
25 ~~this subdivision. In order to comply with this subdivision, in~~  
26 ~~addition to any other information gathered in the course of the~~  
27 ~~transaction, and in addition to any other signature required, the~~  
28 ~~customer shall be asked to sign and date a document separate from~~  
29 ~~that written transaction, containing the following words printed in~~  
30 ~~10-point type or larger:~~

31 ~~“I acknowledge that in signing this contract or agreement, I am~~  
32 ~~voluntarily choosing to change the entity that supplies me with~~  
33 ~~electric power.”~~

34 ~~(2) The acknowledgment document described in paragraph (1)~~  
35 ~~may not be included with a check or in connection with a~~  
36 ~~sweepstakes solicitation.~~

37 ~~(e) Any aggregator or provider of electric power offering~~  
38 ~~electricity service to residential and small commercial customers~~  
39 ~~that switches the electric service of a customer without the~~  
40 ~~customer’s consent shall be liable to the aggregator or provider of~~



1 ~~electric power offering electricity services previously selected by~~  
2 ~~the customer in an amount equal to all charges paid by the~~  
3 ~~customer after the violation and shall refund to the customer any~~  
4 ~~amount in excess of the amount that the customer would have been~~  
5 ~~obligated to pay had the customer not been switched.~~

6 ~~(f) An aggregator or provider of electric power shall keep a~~  
7 ~~record of the confirmation of a change pursuant to subdivision (b),~~  
8 ~~(c), or (d) for two years from the date of that confirmation, and~~  
9 ~~shall make those records available, upon request, to the customer~~  
10 ~~and to the commission in the course of a commission investigation~~  
11 ~~of a customer complaint or an investigation pursuant to~~  
12 ~~subdivision (e) of Section 394.2.~~

13 ~~(g) Public agencies are exempt from this section to the extent~~  
14 ~~they are serving customers within their jurisdiction.~~

15 ~~(h) Notwithstanding subdivisions (c) and (d), the commission~~  
16 ~~may require third-party verification for all residential changes to~~  
17 ~~electric service providers if it finds that the application of~~  
18 ~~subdivisions (c) and (d) results in the unauthorized changing of a~~  
19 ~~customer's electric service provider.~~

20 ~~(i) An electrical corporation is exempt from this section for~~  
21 ~~customers that default to the service of the electrical corporation.~~

22 ~~(j) Electric power sold to customers pursuant to Section 80100~~  
23 ~~of the Water Code is not subject to this section.~~

24 *SEC. 27. Section 367 of the Public Utilities Code is amended*  
25 *to read:*

26 367. The commission shall identify and determine those costs  
27 and categories of costs for generation-related assets and  
28 obligations, consisting of generation facilities, generation-related  
29 regulatory assets, nuclear settlements, and power purchase  
30 contracts, including, but not limited to, restructurings,  
31 renegotiations or terminations thereof approved by the  
32 commission, that were being collected in commission-approved  
33 rates on December 20, 1995, and that may become uneconomic as  
34 a result of a competitive generation market, in that these costs may  
35 not be recoverable in market prices in a competitive market, and  
36 appropriate costs incurred after December 20, 1995, for capital  
37 additions to generating facilities existing as of December 20, 1995,  
38 that the commission determines are reasonable and should be  
39 recovered, provided that these additions are necessary to maintain  
40 the facilities through December 31, 2001. These uneconomic costs



1 shall include transition costs as defined in subdivision (f) of  
2 Section 840, and shall be recovered from all customers or in the  
3 case of fixed transition amounts, from the customers specified in  
4 subdivision (a) of Section 841, on a nonbypassable basis and shall:

5 (a) Be amortized over a reasonable time period, including  
6 collection on an accelerated basis, consistent with not increasing  
7 rates for any rate schedule, contract, or tariff option above the  
8 levels in effect on June 10, 1996, provided that, the recovery shall  
9 not extend beyond December 31, 2001, except as follows:

10 (1) Costs associated with employee-related transition costs as  
11 set forth in subdivision (b) of Section 375 shall continue until fully  
12 collected; provided, however, that the cost collection shall not  
13 extend beyond December 31, 2006.

14 (2) Power purchase contract obligations shall continue for the  
15 duration of the contract. Costs associated with any buy-out,  
16 buy-down, or renegotiation of the contracts shall continue to be  
17 collected for the duration of any agreement governing the buy-out,  
18 buy-down, or renegotiated contract; provided, however, no power  
19 purchase contract shall be extended as a result of the buy-out,  
20 buy-down, or renegotiation.

21 ~~(3) Costs associated with contracts approved by the~~  
22 ~~commission to settle issues associated with the Biennial Resource~~  
23 ~~Plan Update may be collected through March 31, 2002; provided~~  
24 ~~that only 80 percent of the balance of the costs remaining after~~  
25 ~~December 31, 2001, shall be eligible for recovery.~~

26 ~~(4) Nuclear incremental cost incentive plans for the San Onofre~~  
27 ~~nuclear generating station shall continue for the full term as~~  
28 ~~authorized by the commission in Decision 96-01-011 and Decision~~  
29 ~~96-04-059; provided that the recovery shall not extend beyond~~  
30 ~~December 31, 2003.~~

31 ~~(5) Costs associated with the exemptions provided in~~  
32 ~~subdivision (a) of Section 374 may be collected through March 31,~~  
33 ~~2002, provided that only fifty million dollars (\$50,000,000) of the~~  
34 ~~balance of the costs remaining after December 31, 2001, shall be~~  
35 ~~eligible for recovery.~~

36 ~~(6)~~

37 (4) Fixed transition amounts, as defined in subdivision (d) of  
38 Section 840, may be recovered from the customers specified in  
39 subdivision (a) of Section 841 until all rate reduction bonds



1 associated with the fixed transition amounts have been paid in full  
2 by the financing entity.

3 ~~(b) Be based on a calculation mechanism that nets the negative~~  
4 ~~value of all above market utility-owned generation-related assets~~  
5 ~~against the positive value of all below market utility-owned~~  
6 ~~generation-related assets. For those assets subject to valuation, the~~  
7 ~~valuations used for the calculation of the uneconomic portion of~~  
8 ~~the net book value shall be determined not later than December 31,~~  
9 ~~2001, and shall be based on appraisal, sale, or other divestiture.~~  
10 ~~The commission's determination of the costs eligible for recovery~~  
11 ~~and of the valuation of those assets at the time the assets are~~  
12 ~~exposed to market risk or retired, in a proceeding under Section~~  
13 ~~455.5, 851, or otherwise, shall be final, and notwithstanding~~  
14 ~~Section 1708 or any other provision of law, may not be rescinded,~~  
15 ~~altered or amended.~~

16 ~~(c) Be limited in the case of utility-owned fossil generation to~~  
17 ~~the uneconomic portion of the net book value of the fossil capital~~  
18 ~~investment existing as of January 1, 1998, and appropriate costs~~  
19 ~~incurred after December 20, 1995, for capital additions to~~  
20 ~~generating facilities existing as of December 20, 1995, that the~~  
21 ~~commission determines are reasonable and should be recovered,~~  
22 ~~provided that the additions are necessary to maintain the facilities~~  
23 ~~through December 31, 2001. All "going forward costs" of fossil~~  
24 ~~plant operation, including operation and maintenance,~~  
25 ~~administrative and general, fuel and fuel transportation costs, shall~~  
26 ~~be recovered solely from independent Power Exchange revenues~~  
27 ~~or from contracts with the Independent System Operator, provided~~  
28 ~~that for the purposes of this chapter, the following costs may be~~  
29 ~~recoverable pursuant to this section:~~

30 ~~(1) Commission-approved operating costs for particular~~  
31 ~~utility-owned fossil powerplants or units, at particular times when~~  
32 ~~reactive power/voltage support is not yet procurable at~~  
33 ~~market-based rates in locations where it is deemed needed for the~~  
34 ~~reactive power/voltage support by the Independent System~~  
35 ~~Operator, provided that the units are otherwise authorized to~~  
36 ~~recover market-based rates and provided further that for an~~  
37 ~~electrical corporation that is also a gas corporation and that serves~~  
38 ~~at least four million customers as of December 20, 1995, the~~  
39 ~~commission shall allow the electrical corporation to retain any~~  
40 ~~earnings from operations of the reactive power/voltage support~~



1 plants or units and shall not require the utility to apply any portions  
2 to offset recovery of transition costs. Cost recovery under the cost  
3 recovery mechanism shall end on December 31, 2001.

4 (2) ~~An electrical corporation that, as of December 20, 1995,~~  
5 ~~served at least four million customers, and that was also a gas~~  
6 ~~corporation that served less than four thousand customers, may~~  
7 ~~recover, pursuant to this section, 100 percent of the uneconomic~~  
8 ~~portion of the fixed costs paid under fuel and fuel transportation~~  
9 ~~contracts that were executed prior to December 20, 1995, and were~~  
10 ~~subsequently determined to be reasonable by the commission, or~~  
11 ~~100 percent of the buy-down or buy-out costs associated with the~~  
12 ~~contracts to the extent the costs are determined to be reasonable by~~  
13 ~~the commission.~~

14 ~~(d) Be adjusted throughout the period through March 31, 2002,~~  
15 ~~to track accrual and recovery of costs provided for in this~~  
16 ~~subdivision. Recovery of costs prior to December 31, 2001, shall~~  
17 ~~include a return as provided for in Decision 95-12-063, as~~  
18 ~~modified by Decision 96-01-009, together with associated taxes.~~

19 ~~(e) (1) Be allocated among the various classes of customers,~~  
20 ~~rate schedules, and tariff options to ensure that costs are recovered~~  
21 ~~from these classes, rate schedules, contract rates, and tariff~~  
22 ~~options, including self-generation deferral, interruptible, and~~  
23 ~~standby rate options in substantially the same proportion as similar~~  
24 ~~costs are recovered as of June 10, 1996, through the regulated retail~~  
25 ~~rates of the relevant electric utility, provided that there (1) There~~  
26 ~~shall be a firewall segregating the recovery of the costs of~~  
27 ~~competition transition charge exemptions such that the costs of~~  
28 ~~competition transition charge exemptions granted to members of~~  
29 ~~the combined class of residential and small commercial customers~~  
30 ~~shall be recovered only from these customers, and the costs of~~  
31 ~~competition transition charge exemptions granted to members of~~  
32 ~~the combined class of customers, other than residential and small~~  
33 ~~commercial customers, shall be recovered only from these~~  
34 ~~customers.~~

35 ~~(2) Individual customers shall not experience rate increases as~~  
36 ~~a result of the allocation of transition costs. However, customers~~  
37 ~~who elect to purchase energy from suppliers other than the Power~~  
38 ~~Exchange through a direct transaction, may incur increases in the~~  
39 ~~total price they pay for electricity to the extent the price for the~~  
40 ~~energy exceeds the Power Exchange price.~~



1 ~~(3)~~—The commission shall retain existing cost allocation  
2 authority, provided the firewall and rate freeze principles are not  
3 violated.

4 *SEC. 28. Section 367.5 is added to the Public Utilities Code,*  
5 *to read:*

6 *367.5. (a) The commission shall establish a Ratepayer*  
7 *Refund Account for each electrical corporation. All refunds*  
8 *recovered by an electrical corporation, either directly or indirectly*  
9 *by way of offset against amounts otherwise owed by the electrical*  
10 *corporation, resulting from any litigation or agreement relative to*  
11 *the charging of excessive costs for wholesale electricity by*  
12 *electrical generators, traders, and suppliers that have been*  
13 *recovered, or are recoverable, from ratepayers in*  
14 *commission-approved rates, shall be credited to the electrical*  
15 *corporation's Ratepayer Refund Account.*

16 *(b) All funds held by an electrical corporation that are required*  
17 *by this section to be credited to the Ratepayer Refund Account of*  
18 *the corporation are the property of the ratepayers and shall be held*  
19 *in trust on their behalf.*

20 *SEC. 29. Section 367.7 of the Public Utilities Code is*  
21 *repealed.*

22 ~~367.7. (a) It is the intent of the Legislature in enacting this~~  
23 ~~section to ensure that individual customers do not experience rate~~  
24 ~~increases as a result of the allocation of transition costs, in~~  
25 ~~accordance with paragraph (2) of subdivision (c) of Section 367.~~

26 ~~(b) The commission shall implement a methodology whereby~~  
27 ~~the Power Exchange energy credit for a customer with a meter~~  
28 ~~installed on or after June 30, 2000, that is capable of recording~~  
29 ~~hourly data is calculated based on the actual hourly data for that~~  
30 ~~customer. The Power Exchange energy credit for a customer with~~  
31 ~~a meter installed before June 30, 2000, that is capable of recording~~  
32 ~~hourly data shall, at the election of the customer, on a one-time~~  
33 ~~basis before June 30, 2000, be calculated based on either (1) the~~  
34 ~~actual hourly data for that customer or (2) the average load profile~~  
35 ~~for that customer class. If the customer fails to make an election,~~  
36 ~~that customer's Power Exchange energy credit shall continue to be~~  
37 ~~based on the average load profile for that customer class.~~

38 ~~(c) Additional incremental billing costs incurred as a result of~~  
39 ~~the methodology implemented by the commission pursuant to~~



1 subdivision (b) may be recoverable through rates for that customer  
2 class, if the commission finds that the costs are reasonable.

3 (d) The methodology implemented by the commission  
4 pursuant to subdivisions (b) and (c) shall not result in any shifts in  
5 cost between customer classes and shall be consistent with the  
6 firewall provision set forth in subdivision (c) of Section 367.

7 *SEC. 30. Section 370 of the Public Utilities Code is repealed.*

8 370. The commission shall require, as a prerequisite for any  
9 consumer in California to engage in direct transactions permitted  
10 in Section 365, that beginning with the commencement of these  
11 direct transactions, the consumer shall have an obligation to pay  
12 the costs provided in Sections 367, 368, 375, and 376, and subject  
13 to the conditions in Sections 371 to 374, inclusive, directly to the  
14 electrical corporation providing electricity service in the area in  
15 which the consumer is located. This obligation shall be set forth  
16 in the applicable rate schedule, contract, or tariff option under  
17 which the customer is receiving service from the electrical  
18 corporation. To the extent the consumer does not use the electrical  
19 corporation's facilities for direct transaction, the obligation to pay  
20 shall be confirmed in writing, and the customer shall be advised  
21 by any electricity marketer engaged in the transaction of the  
22 requirement that the customer execute a confirmation. The  
23 requirement for marketers to inform customers of the written  
24 requirement shall cease on January 1, 2002.

25 *SEC. 31. Section 373 of the Public Utilities Code is repealed.*

26 373. (a) Electrical corporations may apply to the commission  
27 for an order determining that the costs identified in Sections 367,  
28 368, 375, and 376 not be collected from a particular class of  
29 customer or category of electricity consumption.

30 (b) Subject to the fire wall specified in subdivision (e) of  
31 Section 367, the provisions of this section and Sections 372 and  
32 374 shall apply in the event the commission authorizes a  
33 nonbypassable charge prior to the implementation of an  
34 Independent System Operator and Power Exchange referred to in  
35 subdivision (a) of Section 365.

36 *SEC. 32. Section 376 of the Public Utilities Code is repealed.*

37 376. To the extent that the costs of programs to accommodate  
38 implementation of direct access, the Power Exchange, and the  
39 Independent System Operator, that have been funded by an  
40 electrical corporation and have been found by the commission or



1 ~~the Federal Energy Regulatory Commission to be recoverable~~  
2 ~~from the utility's customers, reduce an electrical corporation's~~  
3 ~~opportunity to recover its utility generation-related plant and~~  
4 ~~regulatory assets by the end of the year 2001, the electrical~~  
5 ~~corporation may recover unrecovered utility generation-related~~  
6 ~~plant and regulatory assets after December 31, 2001, in an amount~~  
7 ~~equal to the utility's cost of commission approved or Federal~~  
8 ~~Energy Regulatory Commission approved restructuring-related~~  
9 ~~implementation programs. An electrical corporation's ability to~~  
10 ~~collect the amounts from retail customers after the year 2001 shall~~  
11 ~~be reduced to the extent the Independent System Operator or the~~  
12 ~~Power Exchange reimburses the electrical corporation for the~~  
13 ~~costs of any of these programs.~~

14 *SEC. 33. Section 377 of the Public Utilities Code is amended*  
15 *to read:*

16 377. The commission shall ~~continue to~~ regulate the facilities  
17 for the generation of electricity owned by any public utility ~~prior~~  
18 ~~to January 1, 1997, that are subject to commission regulation until~~  
19 ~~the owner of those facilities has applied to the commission to~~  
20 ~~dispose of those facilities and has been authorized by the~~  
21 ~~commission under Section 851 to undertake that disposal on a cost~~  
22 ~~of service basis. Notwithstanding any other provision of law, no~~  
23 ~~facility or site for the generation of electricity owned by a public~~  
24 ~~utility may be disposed of prior to January 1, 2006 2010. The~~  
25 ~~commission shall ensure that public utility generation assets~~  
26 ~~remain dedicated to service for the benefit of California ratepayers~~  
27 ~~the electrical corporations' bundled customers.~~

28 *SEC. 34. Section 378 of the Public Utilities Code is repealed.*

29 ~~378. The commission shall authorize new optional rate~~  
30 ~~schedules and tariffs, including new service offerings, that~~  
31 ~~accurately reflect the loads, locations, conditions of service, cost~~  
32 ~~of service, and market opportunities of customer classes and~~  
33 ~~subclasses.~~

34 *SEC. 35. Section 379 of the Public Utilities Code is amended*  
35 *to read:*

36 379. Nuclear decommissioning costs shall ~~not be part of the~~  
37 ~~costs described in Sections 367, 368, 375, and 376, but shall be~~  
38 ~~recovered as a nonbypassable charge until the time as the costs are~~  
39 ~~fully recovered. Recovery of decommissioning costs may be~~  
40 ~~accelerated to the extent possible.~~



1     ~~SEC. 36. Section 389 of the Public Utilities Code is repealed.~~  
2     ~~389. (a) The Secretary of the California Environmental~~  
3     ~~Protection Agency, in consultation with interested stakeholders~~  
4     ~~including relevant state and federal agencies, boards, and~~  
5     ~~commissions, shall evaluate and recommend to the Legislature~~  
6     ~~public policy strategies that address the feasibility of shifting costs~~  
7     ~~from electric utility ratepayers, in whole or in part, to other classes~~  
8     ~~of beneficiaries. This evaluation also shall address the~~  
9     ~~quantification of benefits attributable to the solid fuel biomass~~  
10    ~~industry and implementation requirements, including statutory~~  
11    ~~amendments and transition period issues that may be relevant, to~~  
12    ~~bring about equitable and effective allocation of solid fuel~~  
13    ~~biomass electricity costs that ensure the retention of the economic~~  
14    ~~and environmental benefits of the biomass industry while~~  
15    ~~promoting measurable reduction in real costs to ratepayers. This~~  
16    ~~evaluation shall be in coordination with the California Energy~~  
17    ~~Resources Conservation and Development Commission's efforts~~  
18    ~~pursuant to subdivision (b) of Section 383, addressing renewable~~  
19    ~~policy implementation issues. The Secretary of the California~~  
20    ~~Environmental Protection Agency shall submit a final report to the~~  
21    ~~Legislature, using existing agency resources, prior to March 31,~~  
22    ~~1997.~~

23    ~~(b) The Secretary of the California Environmental Protection~~  
24    ~~Agency, in consultation with relevant state and federal agencies,~~  
25    ~~boards, and commissions, and with representatives of the~~  
26    ~~solid fuel biomass industry, shall prepare and submit to the~~  
27    ~~Legislature an annual report on the existence, status, and progress~~  
28    ~~of any public policy measures for cost shifting developed as a~~  
29    ~~result of the recommendations made pursuant to subdivision (a);~~  
30    ~~on or before March 31 of each year from 1999 to 2001, inclusive.~~  
31    ~~A report prepared pursuant to this subdivision shall not exceed 10~~  
32    ~~pages.~~

33    ~~SEC. 37. Section 391 of the Public Utilities Code is repealed.~~

34    ~~391. The Legislature finds and declares all of the following:~~

35    ~~(a) Electricity is essential to the health, safety, and economic~~  
36    ~~well-being of all California consumers.~~

37    ~~(b) The restructuring of the electricity industry will create a~~  
38    ~~new electricity market with new marketers and sellers offering~~  
39    ~~new goods and services, many of which may not be readily~~  
40    ~~evaluated by the average consumer.~~



1 ~~(c) It is important that these customers be protected from unfair~~  
2 ~~marketing practices and that market participants demonstrate their~~  
3 ~~creditworthiness and technical expertise in order to engage in~~  
4 ~~power sales to these members of the public.~~

5 ~~(d) Larger commercial and industrial customers are~~  
6 ~~sophisticated energy consumers that have adequate civil remedies~~  
7 ~~and are adequately protected by existing commercial law, as~~  
8 ~~demonstrated by the absence of significant amounts of contract~~  
9 ~~litigation between commercial and industrial natural gas users and~~  
10 ~~natural gas marketers in California.~~

11 ~~(e) It is important to create a market structure that will not~~  
12 ~~unduly burden new entrants into the competitive electric market,~~  
13 ~~or California may not receive the full benefits of reduced~~  
14 ~~electricity costs through competition.~~

15 ~~(f) It is appropriate to create a system of registration and~~  
16 ~~consumer protection for the electric industry, designed to ensure~~  
17 ~~sufficient protection for residential and small commercial~~  
18 ~~consumers while simplifying entry into the market for responsible~~  
19 ~~entities serving larger, more sophisticated customers.~~

20 ~~(g) It is the intent of the Legislature that:~~

21 ~~(1) Electricity consumers be provided with sufficient and~~  
22 ~~reliable information to be able to compare and select among~~  
23 ~~products and services provided in the electricity market.~~

24 ~~(2) Consumers be provided with mechanisms to protect~~  
25 ~~themselves from marketing practices that are unfair or abusive.~~

26 ~~(3) Pursuant to the authority granted to the commission in this~~  
27 ~~part as to registration and consumer protection matters, the~~  
28 ~~commission shall balance the need to maximize competition by~~  
29 ~~reducing barriers to entry into the small retail electricity~~  
30 ~~procurement market with the need to protect small consumers~~  
31 ~~against deceptive, unfair, or abusive business practices, or~~  
32 ~~insolvency of the entity offering retail electric service.~~

33 ~~(h) It is the intent of the Legislature in enacting this act to~~  
34 ~~further the policies of AB 1890 (Chapter 854, Statutes of 1996)~~  
35 ~~relating to electric industry restructuring.~~

36 *SEC. 38. Section 392 of the Public Utilities Code is amended*  
37 *to read:*

38 392. ~~(a)(1) Electrical corporations shall disclose each~~  
39 ~~component of the electrical bill as follows:~~



1 ~~(A) The total charges associated with transmission and~~  
2 ~~distribution, including that portion comprising the research,~~  
3 ~~environmental, and low-income funds.~~

4 ~~(B) The total charges associated with generation, including the~~  
5 ~~competition transition charge.~~

6 ~~(2) Electrical corporations shall provide conspicuous notice~~  
7 ~~that if the customer elects to purchase electricity from another~~  
8 ~~provider that customer will continue to be liable for payment of the~~  
9 ~~competition transition charge. This paragraph does not prohibit~~  
10 ~~the commission from requiring additional information.~~

11 ~~(b) Prior to the implementation of the competition transition~~  
12 ~~charge, electric corporations, in conjunction with the commission,~~  
13 ~~shall devise and implement a customer education program~~  
14 ~~informing customers of the changes to the electric industry. The~~  
15 ~~program shall provide customers with information necessary to~~  
16 ~~help them make appropriate choices as to their electric service. The~~  
17 ~~education program shall be subject to approval by the commission.~~

18 ~~(e) The standard bill format developed by the commission~~  
19 ~~pursuant to subdivision (e) of Section 394.4 shall also apply to~~  
20 ~~electrical corporations directed by the commission.~~

21 *SEC. 39. Section 393.1 is added to the Public Utilities Code,*  
22 *to read:*

23 *393.1. The Legislature finds and declares all of the following:*

24 *(a) Metering customer usage of electricity is an integral part of*  
25 *the electricity distribution system, and is the responsibility of the*  
26 *electrical corporation.*

27 *(b) Accurately applying utility tariffs approved by the*  
28 *commission and calculating a customer's bill is the responsibility*  
29 *of the electrical corporation.*

30 *(c) If electricity metering is performed by entities other than the*  
31 *electrical corporation, it can create customer confusion, and can*  
32 *create serious safety hazards for customers and utility employees.*

33 *(d) Customers are entitled to have the electrical corporation*  
34 *resolve all questions regarding the accuracy of bills, including the*  
35 *accuracy of metering and correct application of approved utility*  
36 *tariffs, subject to commission oversight.*

37 *(e) To protect customers from fraud and abuse, and to enable*  
38 *customers to easily resolve disputes concerning metering or*  
39 *billing, those functions should be performed only by an electrical*  
40 *corporation subject to regulation by the commission.*



1 SEC. 40. Section 393.2 is added to the Public Utilities Code,  
2 to read:

3 393.2. (a) All metering of customer usage of electricity and  
4 customer billing shall be performed by the electrical corporation.

5 (b) No residential or small commercial customer may be  
6 required to take service under a time-differentiated rate without  
7 the customer's prior consent.

8 (c) Nothing in this article limits the commission's power or  
9 authority with respect to customer billing. The commission may  
10 require an electrical corporation to aggregate a customer's  
11 multiple accounts into a single bill, so long as the cost for that  
12 activity is recoverable in rates.

13 SEC. 41. Section 397 of the Public Utilities Code is repealed.

14 ~~397. (a) Notwithstanding subdivision (a) of Section 368, to~~  
15 ~~ensure the continued safe and reliable provision of electric service~~  
16 ~~during the transition to competition, and to limit the effect of fuel~~  
17 ~~price volatility in electric rates paid by California consumers, it is~~  
18 ~~in the public interest to allow an electrical corporation which is~~  
19 ~~also a gas corporation and served fewer than four million~~  
20 ~~customers as of December 20, 1995, to file with the commission~~  
21 ~~a rate cap mechanism which shall include a Fuel Price Index~~  
22 ~~Mechanism requiring limited adjustments in an electrical~~  
23 ~~corporation's authorized System Average Rate in effect on June~~  
24 ~~10, 1996, to reflect price changes in the fuel market. The~~  
25 ~~commission shall authorize an electrical corporation to implement~~  
26 ~~a rate cap mechanism which includes a Fuel Price Index~~  
27 ~~Mechanism provided the following criteria are met:~~

28 ~~(1) The Fuel Price Index Mechanism shall be based on the~~  
29 ~~Southern California Border Index price for natural gas as~~  
30 ~~published periodically in Natural Gas Intelligence Magazine. The~~  
31 ~~"Starting Point" of the Fuel Price Index Mechanism shall be~~  
32 ~~defined as the California Border Index price as published in~~  
33 ~~Natural Gas Intelligence for January 1, 1996.~~

34 ~~(2) The Fuel Price Index Mechanism shall include a~~  
35 ~~"deadband" defined as a price range for natural gas that is any~~  
36 ~~price up to 10 percent higher, or lower, than the Starting Point.~~

37 ~~(3) The electrical corporation shall not file for a change in its~~  
38 ~~authorized System Average Rate unless the California Border~~  
39 ~~Index price, on a 12-month, rolling average basis, is outside the~~  
40 ~~deadband. If the published California Border Index is outside of~~



1 ~~the deadband, the electrical corporation shall increase, or decrease,~~  
2 ~~its authorized System Average Rate by an amount equal to the~~  
3 ~~product of 25 percent multiplied by the percentage by which the~~  
4 ~~12-month rolling average natural gas price is higher, or lower, than~~  
5 ~~the deadband.~~

6 ~~(4) In no case shall an electrical corporation's authorized~~  
7 ~~System Average Rate under the Fuel Price Index Mechanism~~  
8 ~~exceed the average of the authorized system average rates for the~~  
9 ~~two largest electrical corporations as of June 10, 1996.~~

10 ~~(5) This section shall become inoperative on December 31,~~  
11 ~~2001.~~

12 *SEC. 42. Section 454.1 of the Public Utilities Code, as added*  
13 *by Chapter 1040 of the Statutes of 2000, is amended and*  
14 *renumbered to read:*

15 ~~454.1.~~

16 ~~454.6. (a) Reasonable expenditures by transmission owners~~  
17 ~~that are electrical corporations to plan, design, and engineer~~  
18 ~~reconfiguration, replacement, or expansion of transmission~~  
19 ~~facilities are in the public interest and are deemed prudent if made~~  
20 ~~for the purpose of facilitating competition in electric generation~~  
21 ~~markets, ensuring open access and comparable service providing~~  
22 ~~lower cost delivery of electricity to ratepayers, or maintaining or~~  
23 ~~enhancing reliability, whether or not these expenditures are for~~  
24 ~~transmission facilities that become operational.~~

25 ~~(b) The commission and the Electricity Oversight Board shall~~  
26 ~~jointly facilitate the efforts of the state's transmission owning~~  
27 ~~electrical corporations to obtain authorization from the Federal~~  
28 ~~Energy Regulatory Commission to recover reasonable~~  
29 ~~expenditures made for the purposes stated in subdivision (a).~~

30 ~~(c) Nothing in this section alters or affects the recovery of the~~  
31 ~~reasonable costs of other electric facilities in rates pursuant to the~~  
32 ~~commission's existing ratemaking authority under this code or~~  
33 ~~pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs.~~  
34 ~~791a, et seq.; Ch. 12 (commencing with Section 791a), Title 16,~~  
35 ~~U.S.C.). The commission may periodically review and adjust~~  
36 ~~depreciation schedules and rates authorized for an electric plant~~  
37 ~~that is under the jurisdiction of the commission and owned by~~  
38 ~~electrical corporations and periodically review and adjust~~  
39 ~~depreciation schedules and rates authorized for a gas plant that is~~



1 under the jurisdiction of the commission and owned by gas  
2 corporations, consistent with this code.

3 *SEC. 43. Section 454.10 is added to the Public Utilities Code,*  
4 *to read:*

5 *454.10. (a) In order to ensure that service provided by*  
6 *electrical corporations is adequate, the commission may require*  
7 *an electrical corporation that provides distribution service to*  
8 *make direct investments in, or contract with the California*  
9 *Consumer Power and Conservation Financing Authority for,*  
10 *electric plants that are dedicated to serve the customers connected*  
11 *to the electrical corporation's distribution system or grid,*  
12 *consistent with the plan approved by the commission pursuant to*  
13 *Section 454.5.*

14 *(b) After a hearing, the commission shall approve rates*  
15 *sufficient to afford the electrical corporation a reasonable*  
16 *opportunity to recover its reasonable costs of operating, its*  
17 *reasonable investment in, and a reasonable return on its*  
18 *investment in the electric plants, in accordance with Sections*  
19 *330.6, 377, 451, and 1005.5.*

20 *(c) An electrical corporation may meet the obligations of this*  
21 *section by contracting with or entering into projects for*  
22 *construction of electric plants jointly with, without limitation, the*  
23 *California Consumer Power and Conservation Financing*  
24 *Authority, California municipalities, cooperatives, and joint*  
25 *powers authorities.*

26 *SEC. 44. Section 761.7 is added to the Public Utilities Code,*  
27 *to read:*

28 *761.7. An electrical corporation, holding company as defined*  
29 *in Section 79b(a)(7)(A) of Title 15 of the United States Code, or*  
30 *other entity that owns, controls, operates, or manages a public*  
31 *utility shall be subject to the jurisdiction, control, and regulation*  
32 *of the commission for the limited purpose of monitoring and*  
33 *enforcing conditions in commission decisions D.88-01-063,*  
34 *D.96-11-017, D.99-04-068, D.95-05-021, D.95-12-018, and*  
35 *D.98-03-07.*

36 *SEC. 45. Section 9600 of the Public Utilities Code is repealed.*

37 ~~9600. (a) It is the intent of the Legislature that California's~~  
38 ~~local publicly owned electric utilities and electric corporations~~  
39 ~~should commit control of their transmission facilities to the~~  
40 ~~Independent System Operator as described in Chapter 2.3~~



1 ~~(commencing with Section 330) of Part 1 of Division 1. These~~  
2 ~~utilities should jointly advocate to the Federal Energy Regulatory~~  
3 ~~Commission a pricing methodology for the Independent System~~  
4 ~~Operator that results in an equitable return on capital investment~~  
5 ~~in transmission facilities for all Independent System Operator~~  
6 ~~participants and is based on the following principles:~~

7 ~~(1) Utility specific access charge rates as proposed in Docket~~  
8 ~~No. EC96-19-000 as finally approved by the Federal Energy~~  
9 ~~Regulatory Commission reflecting the costs of that utility's~~  
10 ~~transmission facilities shall go into effect on the first day of the~~  
11 ~~Independent System Operator operation. The utility specific rates~~  
12 ~~shall honor all of the terms and conditions of existing transmission~~  
13 ~~service contracts and shall recognize any wheeling revenues of~~  
14 ~~existing transmission service arrangements to the transmission~~  
15 ~~owner.~~

16 ~~(2) (A) No later than two years after the initial operation of the~~  
17 ~~Independent System Operator, the Independent System Operator~~  
18 ~~shall recommend for adoption by the Federal Energy Regulatory~~  
19 ~~Commission a rate methodology determined by a decision of the~~  
20 ~~Independent System Operator governing board, provided that the~~  
21 ~~decision shall be based on principles approved by the governing~~  
22 ~~board including, but not limited to, an equitable balance of costs~~  
23 ~~and benefits, and shall define the transmission facility costs, if any,~~  
24 ~~which shall be rolled in to the transmission service rate and spread~~  
25 ~~equally among all Independent System Operator transmission~~  
26 ~~users, and those transmission facility costs, if any, which should~~  
27 ~~be specifically assigned to a specific utility's service area.~~

28 ~~(B) If there is no governing board decision, the rate~~  
29 ~~methodology shall be determined following a decision by the~~  
30 ~~alternative dispute resolution method set forth in the Independent~~  
31 ~~System Operator bylaws.~~

32 ~~(C) If no alternative dispute resolution decision is rendered,~~  
33 ~~then a default rate methodology shall be a uniform regional~~  
34 ~~transmission access charge and a utility specific local transmission~~  
35 ~~access charge, provided that the default rate methodology shall be~~  
36 ~~recommended for implementation upon termination of the cost~~  
37 ~~recovery plan set forth in Section 368 or no later than two years~~  
38 ~~after the initial operation of the Independent System Operator,~~  
39 ~~whichever is later. For purposes of this paragraph, regional~~  
40 ~~transmission facilities are defined to be transmission facilities~~



1 ~~operating at or above 230 kilovolts plus an appropriate percentage~~  
2 ~~of transmission facilities operating below 230 kilovolts; all other~~  
3 ~~transmission facilities shall be considered local. The appropriate~~  
4 ~~percentage of transmission facilities described above shall be~~  
5 ~~consistent with the guidelines in Federal Energy Regulatory~~  
6 ~~Commission Order No. 888 and any exception approved by that~~  
7 ~~commission.~~

8 ~~(3) If the rate methodology implemented as a result of a~~  
9 ~~decision by the Independent System Operator governing board or~~  
10 ~~resulting from the independent system operator alternative dispute~~  
11 ~~resolution process results in rates different than those in effect~~  
12 ~~prior to the decision for any transmission facility owner, the~~  
13 ~~amount of any differences between the new rates and the prior rates~~  
14 ~~shall be recorded in a tracking account to be recovered from~~  
15 ~~customers and paid to the appropriate transmission owners by the~~  
16 ~~transmission facility owner after termination of the cost recovery~~  
17 ~~plan set forth in Section 368. The recovery and payments shall be~~  
18 ~~based on an amortization period not to exceed three years in the~~  
19 ~~case of the electrical corporations or five years in the case of the~~  
20 ~~local publicly owned electric utilities.~~

21 ~~(4) The costs of transmission facilities placed in service after~~  
22 ~~the date of initial implementation of the Independent System~~  
23 ~~Operator shall be recovered using the rate methodology in effect~~  
24 ~~at the time the facilities go into operation.~~

25 ~~(5) The electrical corporations and the local publicly owned~~  
26 ~~electric utilities shall jointly develop language for implementation~~  
27 ~~proposals to the Federal Energy Regulatory Commission based on~~  
28 ~~these principles.~~

29 ~~(6) Nothing in this section shall compel any party to violate~~  
30 ~~restrictions applicable to facilities financed with tax exempt bonds~~  
31 ~~or contractual restrictions and covenants regarding use of~~  
32 ~~transmission facilities existing as of December 20, 1995.~~

33 ~~(b) Following a final Federal Energy Regulatory Commission~~  
34 ~~decision approving the Independent System Operator, no~~  
35 ~~California electrical corporation or local publicly owned electric~~  
36 ~~utility shall be authorized to collect any competition transition~~  
37 ~~charge authorized pursuant to this division and Chapter 2.3~~  
38 ~~(commencing with Section 330) of Part 1 of Division 1 unless it~~  
39 ~~commits control of its transmission facilities to the Independent~~  
40 ~~System Operator.~~



1 *SEC. 46. Section 9601 of the Public Utilities Code is repealed.*

2 ~~9601. — (a) Except with respect to supply options of the nature~~  
3 ~~specified in Section 218, with the exception of paragraph (3) of~~  
4 ~~subdivision (b) of that section, as it existed on December 20, 1995,~~  
5 ~~no person, corporation, electrical corporation, or local publicly~~  
6 ~~owned electric utility or other governmental entity other than a~~  
7 ~~retail customer's existing electric service provider as of December~~  
8 ~~20, 1995, shall provide partial or full electric service to a retail~~  
9 ~~customer of a local publicly owned electric utility unless the~~  
10 ~~customer first confirms in writing an obligation to pay, through~~  
11 ~~tariff or otherwise, to the utility currently providing electric~~  
12 ~~service, a nonbypassable generation-related severance fee or~~  
13 ~~transition charge established by the regulatory body for that utility.~~  
14 ~~The severance fee or transition charge shall be paid directly to the~~  
15 ~~local publicly owned utility providing electricity service in the~~  
16 ~~service area in which the consumer is located.~~

17 ~~(b) Except as provided in subdivision (a) of Section 374, no~~  
18 ~~local publicly owned electric utility or other governmental entity~~  
19 ~~shall provide partial or full electric service to a retail customer of~~  
20 ~~an electrical corporation unless the customer of that electrical~~  
21 ~~corporation first confirms in writing an obligation to pay, through~~  
22 ~~tariff or otherwise, to the electrical corporation currently~~  
23 ~~providing electric service, a nonbypassable generation-related~~  
24 ~~transition charge established by the regulatory body for that~~  
25 ~~electrical corporation. The charge shall be paid directly to the~~  
26 ~~electrical corporation providing electricity in the service area in~~  
27 ~~which the consumer is located.~~

28 ~~(c) No local publicly owned electric utility or electrical~~  
29 ~~corporation shall sell electric power to the retail customers of~~  
30 ~~another local publicly owned electric utility or electrical~~  
31 ~~corporation unless the first utility has agreed to let the second~~  
32 ~~utility make sales of electric power to the retail customers of the~~  
33 ~~first utility.~~

34 *SEC. 47. Section 9602 of the Public Utilities Code is repealed.*

35 ~~9602. — (a) After a public hearing, the local regulatory body of~~  
36 ~~each local publicly owned electric utility shall determine whether~~  
37 ~~it will authorize direct transactions between electricity suppliers~~  
38 ~~and end use customers, subject to implementation of the~~  
39 ~~nonbypassable severance fee or transition charge referred to in~~  
40 ~~Section 9603.~~



1 ~~(b) If the regulatory body authorizes direct transactions, a~~  
2 ~~phase in of these transactions shall commence no later than the~~  
3 ~~latter of January 1, 2000, or two years after the start of the phase in~~  
4 ~~of direct transactions by the electrical corporations pursuant to~~  
5 ~~subdivision (b) of Section 365, and shall be completed by the later~~  
6 ~~of December 31, 2010, or two years after the completion of the~~  
7 ~~phase in by electrical corporations.~~

8 ~~(c) The regulatory body shall develop a phase-in schedule at the~~  
9 ~~conclusion of which all customers shall have the right to engage~~  
10 ~~in direct transactions.~~

11 ~~(d) Any phase in of customer eligibility for direct transactions~~  
12 ~~ordered by the regulatory body shall be equitable to all customer~~  
13 ~~classes.~~

14 ~~(e) If the regulatory body does not authorize direct access as~~  
15 ~~contemplated in this section, then the publicly owned electric~~  
16 ~~utility shall not be eligible to recover the nonbypassable charge as~~  
17 ~~provided in Section 9603.~~

18 *SEC. 48. Section 9603 of the Public Utilities Code is repealed.*

19 ~~9603. (a) Not less than six months prior to the date of~~  
20 ~~implementation of direct transactions, the regulatory body shall~~  
21 ~~establish the nonbypassable generation-related severance fee or~~  
22 ~~transition charge which shall include, but shall not be limited to,~~  
23 ~~employee related transition costs incurred and projected for~~  
24 ~~severance, out placement, retraining, early retirement, and related~~  
25 ~~expenses for employees directly affected by restructuring.~~

26 ~~(b) The regulatory body of a local publicly owned electric~~  
27 ~~utility, prior to adopting any generation related severance fee or~~  
28 ~~transition charge, shall make available for public review the basis~~  
29 ~~for the severance fee or transition charge and shall hold at least one~~  
30 ~~public hearing.~~

31 *SEC. 49. Section 9604 of the Public Utilities Code is amended*  
32 *to read:*

33 9604. For purposes of this division, the following definitions  
34 apply:

35 (a) ~~“Direct transaction” means a contract between one or more~~  
36 ~~electric generators, marketers, or brokers, public or private, of~~  
37 ~~electric power and one or more retail customers providing for the~~  
38 ~~purchase and sale of electric power and ancillary services.~~



1 ~~(b) “Service area” means an area in which, as of December 20,~~  
2 ~~1995, an investor owned electric utility or a local publicly owned~~  
3 ~~electric utility was obligated to provide service.~~

4 ~~(c) “Severance fee” or “transition charge” for a local publicly~~  
5 ~~owned electric utility shall mean that charge or periodic charge~~  
6 ~~assessed to customers to recover the reasonable uneconomic~~  
7 ~~portion of costs associated with generation related assets and~~  
8 ~~obligations, nuclear decommissioning, and capitalized energy~~  
9 ~~efficiency investment programs approved prior to August 15,~~  
10 ~~1996.~~

11 ~~(d) “Local “local publicly owned electric utility” as used in~~  
12 ~~this division means a municipality or municipal corporation~~  
13 ~~operating as a “public utility” furnishing electric service as~~  
14 ~~provided in Section 10001, a municipal utility district furnishing~~  
15 ~~electric service formed pursuant to Division 6 (commencing with~~  
16 ~~Section 11501), a public utility district furnishing electric services~~  
17 ~~formed pursuant to the Public Utility District Act set forth in~~  
18 ~~Division 7 (commencing with Section 15501), an irrigation~~  
19 ~~district furnishing electric services formed pursuant to the~~  
20 ~~Irrigation District Law set forth in Division 11 (commencing with~~  
21 ~~Section 20500) of the Water Code, or a joint powers authority that~~  
22 ~~includes one or more of these agencies and that owns generation~~  
23 ~~or transmission facilities, or furnishes electric services over its~~  
24 ~~own or its member’s electric distribution system.~~

25 *SEC. 50. Section 9605 of the Public Utilities Code is repealed.*  
26 ~~9605. (a) Nothing in this division or Chapter 2.3~~  
27 ~~(commencing with Section 350) of Part 1 of Division 1 shall affect~~  
28 ~~preexisting ratemaking authority of a regulatory body of any local~~  
29 ~~publicly owned electric utility.~~

30 ~~(b) Nothing in this division shall modify or abrogate any~~  
31 ~~agreement, or any rights or obligations in any such agreement,~~  
32 ~~between retail electric service providers relating to service areas.~~

33 ~~(c) Nothing in this division shall limit or affect the statutory~~  
34 ~~rights of a local publicly owned electric utility to negotiate and~~  
35 ~~design rates for existing customers and new customers not~~  
36 ~~choosing to be served by an alternate supplier.~~

37 ~~(d) Nothing in this division shall limit electric supply options~~  
38 ~~within the service territory of a local publicly owned electric utility~~  
39 ~~to the extent the options are of the nature specified in Section 218~~  
40 ~~as it existed on December 20, 1995, with the exception of~~



1 paragraph (3) of subdivision (b) of that section, and the imposition  
2 of a severance fee or transition charge on customers electing those  
3 options shall be prohibited whether the elections are made before  
4 or after the availability of direct transactions within the service  
5 area of the local publicly owned electric utility.

6 *SEC. 51. The provisions of this act are severable. If any*  
7 *provision of this act or its application is held invalid, that*  
8 *invalidity shall not affect other provisions or applications that can*  
9 *be given effect without the invalid provision or application.*

10 *SEC. 52. No reimbursement is required by this act pursuant*  
11 *to Section 6 of Article XIII B of the California Constitution*  
12 *because the only costs that may be incurred by a local agency or*  
13 *school district will be incurred because this act creates a new crime*  
14 *or infraction, eliminates a crime or infraction, or changes the*  
15 *penalty for a crime or infraction, within the meaning of Section*  
16 *17556 of the Government Code, or changes the definition of a*  
17 *crime within the meaning of Section 6 of Article XIII B of the*  
18 *California Constitution.*

19 ~~Code, to read:~~

20 ~~712. It is the intent of the Legislature, in subsequent~~  
21 ~~legislation, 56to repeal the provisions of Assembly Bill 1890~~  
22 ~~(Chapter 854, Statutes 1996).~~

