AMENDED IN SENATE APRIL 28, 2003

AMENDED IN SENATE APRIL 10, 2003

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL No. 888

Introduced by Senators Dunn, Bowen, and Burton
(Coauthors: Senators Alpert, Escutia, Karnette, Kuehl, Murray, Ortiz, Perata, and Romero)
(Coauthors: Assembly Members Leno, Matthews, Oropeza, and Steinberg)

February 21, 2003

An act 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, *454.55*, 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.

(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.

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~~ *have an obligation to serve retail customers with reliable service* at just and reasonable rates~~,~~*. The bill would provide that this obligation* 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, *reliable*, 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 provide that this obligation to serve also includes the obligation to plan for and provide sufficient cost-effective resources, including utility owned and procured generation resources, transmission resources, and distribution resources.* The bill would require the commission to ensure that ~~public utility employees and investors are~~ *the electrical corporation is* afforded the means to carry out these obligations, specifically including reasonable compensation for employees and ~~fair sharing of risks and rewards for investors~~ *a reasonable opportunity to recover from all customers, reasonable investments in electric plants, including a reasonable return of such investments, reasonable costs to operate, and procurement costs*. 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 requires the commission to establish and oversee a long-term, comprehensive integrated resource planning process that results in a balanced, reliable, environmentally responsible portfolio of supply and demand-reduction resources, and to ensure that the electrical corporation's procurement plan is consistent with the long-term resource plan, to the extent feasible.* The bill would authorize the commission to require electrical corporations to make investments in electric *generation* plants that are dedicated to serve customers connected to the electrical corporation's distribution system or grid, or to contract for such investment with *any entity, including* 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~~ *for the benefit* 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: yes. State-mandated local program: yes.

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

SECTION 1. Section 330 of the Public Utilities Code is repealed.

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

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

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

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

(a) Electricity is a unique good in modern society, not a simple commodity. Access to safe, reliable and affordable electrical service is indispensable to the health, comfort, and well-being of every person and business, and should be regarded as a right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) The expectations and assumption that deregulation of the electrical industry would provide consumer benefits, enhanced reliability, lower rates and technological innovation, have proven illusory. Instead, consumers have been and will be forced to pay for massive costs incurred as a result of deregulation, and have suffered from unprecedented degradation in the reliability of electricity supply. Public utilities have been forced to near financial ruin or to seek bankruptcy protection. Certain merchant generators and marketers are in severe financial distress.

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

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

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

(a) Restore and affirm the public utility's obligation to serve all of its customers *with electric generation supply, transmission, and distribution*.

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

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

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

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

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

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

~~(h)~~ *process under regulation that results in a balanced, reliable, environmentally responsible portfolio of supply and demand reduction resources, and is consistent with Sections 701.1 and 454.5, Article 16 (commencing with Section 399.11), and Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code.*

(h) Offer first consideration, when providing for resource adequacy, to available energy efficiency resources and renewable resources that are cost-effective compared to other available resource options.

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

~~(i)~~

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

~~(j)~~

(k) Restore consumer and investor confidence in electrical corporation financial soundness and pricing fairness by making costs transparent and establishing and enforcing accounting standards.

~~(k)~~

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

~~(*l*)~~

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

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

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

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

330.6. (a) ~~Electrical~~ *Because of their status as public utilities pursuant to Article XII of the California Constitution, and consistent with Sections 399.2 and 451, electrical* corporations and gas corporations that serve retail customers~~, because of their status as public utilities under the California Constitution, have an obligation to provide those customers with adequate~~ *have an obligation to serve those customers with reliable* service at just and reasonable rates.

~~(b) The obligation of electrical corporations and gas corporations, to provide adequate service at just and reasonable rates,~~

(b) This obligation to serve 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~~ *reliable, and affordable* service for end-use customers, consistent with the statutes of the state and the rules, regulations, decisions, and orders of the commission. *This obligation to serve includes the obligation to plan for, and provide sufficient, cost-effective resources, including utility owned and procured generation resources, transmission resources, and distribution resources.*

(c) The commission, on behalf of end-use customers, shall ensure that ~~public utility employees and investors are~~ *the electrical corporation is* afforded the means to carry out this obligation to serve, specifically including reasonable compensation for employees and ~~fair sharing of risks and rewards for investors~~ *a reasonable opportunity to recover from all customers, in a manner determined by the commission pursuant to this code, reasonable investments in electric plant, including a reasonable return on such investments, reasonable costs to operate the electric plant, and procurement costs in accordance with Section 454.5.*

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

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

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

(a) To oversee the Independent System Operator.

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

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

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

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

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

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

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

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

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

352. The Independent System Operator may not enter into a multistate regional transmission organization unless that entry is approved by the Oversight Board and the Legislature by concurrent resolution.

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

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

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

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

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

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

364. (a) The commission shall adopt and periodically review and update inspection, maintenance, repair, and replacement standards for the distribution and transmission systems of investor-owned electric utilities. The standards for each substantial type of distribution and transmission equipment or facility~~,~~ shall provide for high quality, safe and reliable service.

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

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

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

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

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

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

366. (a) It is the intention of the Legislature to terminate direct transactions.

(b) Each customer within the geographical distribution area of an electrical corporation~~, that purchases electricity at retail, shall be served by~~ *shall receive any retail electricity service from* the electrical corporation or its successor in interest, except as provided in Sections 366.1 and 366.2. *For purposes of this section, retail electricity service does not include self-provision of electricity from customer-owned generation resources and does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:*

(1) Its own use or the use of its tenants.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, unless there is an intervening public street constituting the boundary between the real property on which the electricity is generated and the immediately adjacent property and one or more of the following applies:

(A) The real property on which the electricity is generated and the immediately adjacent real property is not under common ownership or control, or that common ownership or control was gained solely for purposes of sale of the electricity so generated and not for other business purposes.

(B) The useful thermal output of the facility generating the electricity is not used on the immediately adjacent property for petroleum production or refining.

(C) The electricity furnished to the immediately adjacent property is not utilized by a subsidiary or affiliate of the corporation or person generating the electricity.

(3) Sale or transmission to an electrical corporation or state or local public agency, but not for sale or transmission to others, unless the corporation or person is otherwise an electrical corporation.

(c) If a customer was served by an electric service provider on April 1, 2003, the customer shall continue to be served by that electric service provider until the expiration of the customer's current contract, without extension. Thereafter, the customer shall ~~be served by~~ *receive any retail electricity service from* the electrical corporation that provides distribution service.

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

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

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

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

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

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

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

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

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

367. The commission shall identify and determine those costs and categories of costs for generation-related assets and obligations, consisting of generation facilities, generation-related

regulatory assets, nuclear settlements, and power purchase contracts, including, but not limited to, restructurings, renegotiations or terminations thereof approved by the commission, that were being collected in commission-approved rates on December 20, 1995, and that may become uneconomic as a result of a competitive generation market, in that these costs may not be recoverable in market prices in a competitive market, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that these additions are necessary to maintain the facilities through December 31, 2001. These uneconomic costs shall include transition costs as defined in subdivision (f) of Section 840, and shall be recovered from all customers or in the case of fixed transition amounts, from the customers specified in subdivision (a) of Section 841, on a nonbypassable basis and shall:

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

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

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

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

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

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

(b) (1) There shall be a firewall segregating the recovery of the costs of competition transition charge exemptions such that the costs of competition transition charge exemptions granted to members of the combined class of residential and small commercial customers shall be recovered only from these customers, and the costs of competition transition charge exemptions granted to members of the combined class of customers, other than residential and small commercial customers, shall be recovered only from these customers.

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

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

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

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

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

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

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

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

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

377. The commission shall regulate the facilities for the generation of electricity owned by any public utility on a cost of service basis. Notwithstanding any other provision of law, no

facility or site for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2010. The commission shall ensure that public utility generation assets remain dedicated for the benefit of the electrical ~~corporations'~~ *corporation's* bundled customers.

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

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

379. Nuclear decommissioning costs shall be recovered as a nonbypassable charge until the costs are fully recovered. Recovery of decommissioning costs may be accelerated to the extent possible.

SEC. 36. Section 389 of the Public Utilities Code is repealed.

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

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

392. Electrical corporations shall disclose each component of the electrical bill as directed by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 42. *Section 454.55 is added to the Public Utilities Code, to appear immediately following Section 454.5, to read:*

454.55. (a) The commission shall establish and oversee a long-term, comprehensive integrated resource planning process that results in a balanced, reliable, environmentally responsible portfolio of supply and demand-reduction resources, and is consistent with Sections 701.1 and 454.5, Article 16 (commencing with Section 399.11), and Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code.

(b) The commission shall ensure that the implementation of an electrical corporation's procurement plan is consistent with the long-term resource plan, to the extent feasible.

(c) The commission shall require an electrical corporation, when implementing its procurement plan, to first acquire available energy efficiency resources that are cost-effective compared to other available resource options.

SEC. 43. Section 454.1 of the Public Utilities Code, as added by Chapter 1040 of the Statutes of 2000, is amended and renumbered to read:

454.6. (a) Reasonable expenditures by transmission owners that are electrical corporations to plan, design, and engineer reconfiguration, replacement, or expansion of transmission facilities are in the public interest and are deemed prudent if made for the purpose of providing lower cost delivery of electricity to ratepayers, or maintaining or enhancing reliability, whether or not these expenditures are for transmission facilities that become operational.

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

(c) Nothing in this section alters or affects the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act (Ch. 12 (commencing with Section 791a), Title 16, U.S.C.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by electrical corporations and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by gas corporations, consistent with this code.

~~SEC. 43.~~

SEC. 44. Section 454.10 is added to the Public Utilities Code, to read:

454.10. (a) ~~In~~ *Consistent with Section 762, and in* order to ensure that service provided by electrical corporations is adequate, the commission may require an electrical corporation that provides distribution service to make direct investments in, or contract with *any entity, including* the California Consumer Power and Conservation Financing Authority for, electric *generation* plants that are dedicated to serve the customers connected to the electrical corporation's distribution system or grid, consistent with the plan approved by the commission pursuant to Section 454.5.

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

(c) An electrical corporation may meet the obligations of this section by contracting with or entering into projects for construction of electric ~~plants jointly with,~~ *generation plants jointly with any entity, including,* without limitation, the California Consumer Power and Conservation Financing Authority, California municipalities, cooperatives, and joint powers authorities.

~~SEC. 44.~~

(d) Direct investment in electric generation plants is not the exclusive method for electrical corporation's to fulfill their obligation to serve retail customers at just and reasonable rates. The commission shall implement this section consistent with other applicable provisions of law, including Sections 701.1 and 454.5 and Article 16 (commencing with Section 399.11), to achieve a transparent process that achieves a balanced, reliable, environmentally responsible and cost-effective resource portfolio.

SEC. 45. Section 761.7 is added to the Public Utilities Code, to read:

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

~~SEC. 45.~~

SEC. 46. Section 9600 of the Public Utilities Code is repealed.

~~SEC. 46.~~

SEC. 47. Section 9601 of the Public Utilities Code is repealed.

~~SEC. 47.~~

SEC. 48. Section 9602 of the Public Utilities Code is repealed.

~~SEC. 48.~~

SEC. 49. Section 9603 of the Public Utilities Code is repealed.

~~SEC. 49.~~

SEC. 50. Section 9604 of the Public Utilities Code is amended to read:

9604. For purposes of this division, ''local publicly owned electric utility'' as used in this division means a municipality or municipal corporation operating as a ''public utility'' furnishing electric service as provided in Section 10001, a municipal utility district furnishing electric service formed pursuant to Division 6 (commencing with Section 11501), a public utility district furnishing electric services formed pursuant to the Public Utility District Act set forth in Division 7 (commencing with Section 15501), an irrigation district furnishing electric services formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code, or a joint powers authority that includes one or more of these agencies and that owns generation or transmission facilities, or furnishes electric services over its own or its member's electric distribution system.

~~SEC. 50.~~

SEC. 51. Section 9605 of the Public Utilities Code is repealed.

~~SEC. 51.~~

SEC. 52. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~SEC. 52.~~

SEC. 53. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS

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