

ASSEMBLY BILL

No. 515

**Introduced by Assembly Member Richman
(Coauthor: Assembly Member Canciamilla)**

February 16, 2005

An act to add Section 367.6 to the Public Utilities Code, relating to electrical restructuring.

LEGISLATIVE COUNSEL'S DIGEST

AB 515, as introduced, Richman. electrical corporations.

(1) Under existing law, the Public Utilities Commission regulates electrical corporations. The Public Utilities Act requires the commission to authorize direct transactions between electricity suppliers and end-use customers. However, other existing law suspends the right of retail end-use customers to acquire direct access service from certain electricity suppliers after a period of time to be determined by the commission until the Department of Water Resources no longer supplies electricity under a certain provision of law. Existing law requires the commission to review and adopt a procurement plan for each electrical corporation. The commission is required to establish procurement balancing accounts to track the differences between recorded revenues and costs to ensure that each electrical corporation timely recovers prospective procurement costs pursuant to their procurement plan.

The bill would require the commission, on or before January 1, 2006, to adopt rules under which noncore customers, as defined, by a date certain on or before June 30, 2006, elect whether to procure electricity service (commodity service) from an electric service provider, elect to receive commodity service from the electrical corporation under a procurement plan for a minimum period of 3

years, or receive default commodity service from the electrical corporation. Beginning January 1, 2007, an electrical corporation's obligation to provide commodity service from its procurement plan would extend only to core and core-elect customers, as defined, and to provide default commodity service to noncore customers. Default commodity service would be provided at the higher of the electrical corporation's costs of spot electricity purchases, or the tariff rate for core-elect customers purchasing commodity service pursuant to the electrical corporation's procurement plan. The commission would be required to establish rules to ensure that the costs of providing default commodity service to noncore customers are paid solely by those noncore customers, without impacting the rates and charges of core customers. The bill would require the commission, on or before July 1, 2006, to establish tariffs for noncore customers that include all applicable transmission, distribution, public goods, and cost recovery surcharge costs otherwise paid by noncore customers for certain purposes. Noncore customers that begin taking commodity service from an electric service provider on or after January 1, 2007, would be required to pay certain costs consistent with those costs that customers of a community choice aggregator are required to pay under existing law. The bill would require the commission to establish rules or tariffs that provide an option for residential customers to receive commodity service through direct transactions from renewable resources beginning January 1, 2007, consistent with cost recovery requirements applicable to community aggregators. Because a violation of a rule or order of the commission is a crime, this bill would create a new crime, thereby imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. It is the intent of the Legislature to do all of the
2 following:

1 (a) To establish a market structure in which electrical
2 corporations have an obligation to provide electric commodity
3 service to core customers, and core-elect customers, from a
4 combined portfolio of generation resources allocated on a
5 nondiscriminatory, cost-of-service basis.

6 (b) To affirm the electrical corporation's obligation to provide
7 transmission, distribution, and resource adequacy services for all
8 customers.

9 (c) To allow noncore customers to elect, on prescribed terms,
10 to receive commodity service from the electrical corporation or
11 from an electric service provider without shifting costs to other
12 customer classes.

13 (d) To require an electrical corporation to serve as default
14 provider of commodity service, in a manner that will not increase
15 costs of commodity service to core and core-elect customers, and
16 to noncore customers that voluntarily or involuntarily return to
17 the electrical corporation for service.

18 (e) To encourage the retention of existing and the development
19 of new cogeneration resources to serve the state's electricity
20 demand in a clean and efficient manner.

21 (f) To provide for and expedite the construction of electric
22 generation capacity to meet the needs of a growing state and
23 replace this state's most polluting and inefficient electric
24 generation plants by phasing in a retail market for the most
25 efficient and financially stable customers.

26 SEC. 2. Section 367.6 is added to the Public Utilities Code, to
27 read:

28 367.6. (a) As used in this section, the following terms have
29 the following meanings:

30 (1) "Commodity service" means electricity used by the
31 customer or a supply of electricity available for use by the
32 customer, and does not include services associated with the
33 transmission and distribution of electricity.

34 (2) "Core customers" means small retail end-use customers of
35 an electrical corporation that are unable as a result of economies
36 of scale to efficiently enter into direct transactions, including
37 customers with a maximum peak demand of less than 500
38 kilowatts.

39 (3) "Noncore customers" means larger retail end users of
40 electricity that as a result of economies of scale, can efficiently

1 enter into direct transactions, including end users with a
2 maximum peak demand of 500 kilowatts or more, or as reduced
3 by the commission. On or before January 1, 2009, the
4 commission may reduce the noncore customer maximum peak
5 demand threshold to accommodate load growth and reduction of
6 procurement obligations under Department of Water Resources
7 power contracts being managed by the electrical corporations.
8 When considering a reduction in the noncore threshold, the
9 commission shall not strand generation costs in the electrical
10 corporation's procurement plan portfolio, shift costs between
11 core and noncore customers, or lower the threshold below 200
12 kilowatt maximum peak demand. On or before January 1, 2009,
13 the commission may additionally establish rules allowing
14 customers to aggregate demand to meet the noncore threshold.

15 (4) "Core-elect customer" means a noncore customer that
16 makes an election to be served pursuant to the electrical
17 corporation's procurement plan.

18 (b) Beginning January 1, 2007, an electrical corporation's
19 obligation to provide commodity service from the electrical
20 corporation's procurement plan portfolio, shall extend only to
21 core and core-elect customers. The electric corporation's
22 obligation to provide commodity service to noncore customers
23 shall be limited to the provision of default service pursuant to
24 subdivision (d). The electrical corporation's obligation to provide
25 transmission, distribution and resource adequacy services shall
26 extend to all customers.

27 (c) Beginning January 1, 2007, an electrical corporation shall
28 have no obligation to procure electricity for noncore customers
29 pursuant to a procurement plan, but shall have an obligation to
30 procure electricity for core-elect customers that elect to receive
31 commodity service for a minimum term of three years pursuant
32 to the electrical corporation's procurement plan.

33 (d) The electrical corporation shall serve as a default provider
34 of commodity service for all noncore customers. The electrical
35 corporation shall provide default commodity service to noncore
36 customers that, on or after January 1, 2007, voluntarily or
37 involuntarily return to the electrical corporation for commodity
38 service and have not elected to take commodity service as
39 described in subdivisions (c) and (e). Default commodity service
40 shall be provided at the higher of the electrical corporation's cost

1 of spot electricity purchases, or the tariff rate for core-elect
2 customers purchasing commodity service pursuant to the
3 electrical corporation's procurement plan. The commission shall
4 establish rules to ensure that the costs of providing default
5 commodity service to noncore customers are paid solely by those
6 noncore customers, without impacting the rates and charges of
7 core customers.

8 (e) On or before January 1, 2006, the commission shall adopt
9 rules to implement this section. These rules shall include all of
10 the following:

11 (1) A date certain, on or before June 30, 2006, by which
12 noncore customers must make an election to be served by the
13 electrical corporation for a minimum of three years as a
14 core-elect customer, or to receive service from an electric service
15 provider. Noncore customers failing to make an affirmative
16 election shall receive default commodity service.

17 (2) Terms and condition under which noncore customers may
18 take default service, including the time period after which a
19 customer must select core-elect service or return to non-utility
20 service.

21 (3) Provisions to ensure prompt recovery of reasonable costs
22 an electrical corporation incurs to serve customers pursuant to
23 this section, and in meeting its obligation to serve, and provisions
24 to ensure there is no cost shifting between customer classes.

25 (4) A method for determining the rates and charges for core
26 and core-elect customers, and the default commodity service
27 price, including estimated prices to be in effect as of January 1,
28 2007.

29 (5) Rules for the aggregation of customer load at multiple
30 meters for purposes of determining the core or noncore status of
31 a customer, including the use of appropriate meters.

32 (6) Provisions to ensure that no cost-shifting occurs between
33 core and core-elect customers.

34 (7) A six-month notice requirement to begin receiving or to
35 cancel core-elect service upon completion of the three year
36 commitment.

37 (f) On or before July 1, 2006, the commission shall establish
38 tariffs for a noncore customer that include all applicable
39 transmission, distribution, public goods, and cost recovery

1 surcharge costs otherwise paid by noncore customers for the
2 following purposes:

3 (1) To transmit over nondedicated electrical corporation
4 facilities, electricity generated by a corporation or person at one
5 location for consumption by the same corporation or person, or
6 an affiliated corporation, or person at a separate location.

7 (2) To procure electricity from new or expanded generation
8 facilities.

9 (3) To procure electricity from a cogeneration facility that sold
10 electricity to the electrical corporation on or after June 1, 2003.

11 (g) In coordination with the resource planning and
12 procurement process established in Section 454.5, the
13 commission shall annually establish the appropriate mix and
14 level of long-term, medium-term, and short-term commitments to
15 be made by an electrical corporation, consistent with the
16 electrical corporation procurement obligations established in this
17 section, and shall ensure the flexibility needed to minimize
18 stranded procurement costs.

19 (h) Noncore customers that begin taking commodity service
20 from an electric service provider on or after January 1, 2007,
21 shall be required to pay the costs described in subdivisions (d),
22 (e), (f), and (g) of Section 366.1, to the extent those costs
23 continue to be incurred by the electrical corporations, as
24 determined by the commission. Any customer receiving service
25 under a direct transaction prior to September 20, 2001, shall not
26 incur any additional obligations under this requirement unless
27 they become core-elect customers.

28 (i) In consultation with the State Energy Resources
29 Conservation and Development Commission and the
30 Independent System Operator, the commission shall establish
31 resource adequacy requirements that ensure the availability of
32 planning reserves sufficient to serve all customers of the
33 electrical corporation, including noncore and community choice
34 aggregation customers. The resource adequacy requirements
35 shall ensure cost recovery by the electrical corporation for
36 acquired reserves through a nonbypassable component of the
37 electrical corporation's transmission and distribution charges.

38 (j) The commission shall ensure that noncore customers
39 moving from core-elect to noncore commodity service at the end
40 of a three-year term, do not have an obligation for any future

1 costs incurred by the electrical corporation or Department of
2 Water Resources associated with the electrical corporation's
3 procurement plan, and that costs of the electrical corporation's
4 procurement plan shall be recoverable only from core and
5 core-elect customers served by the electrical corporation pursuant
6 to subdivision (c).

7 (k) The commission shall ensure that all electric service
8 providers and community choice aggregators meet the renewable
9 portfolio standard and support demand-side management
10 programs, either directly or through in-lieu arrangements
11 approved by the commission.

12 (l) The commission shall establish rules or tariffs that provide
13 an option for residential customers to receive commodity service
14 through direct transactions from renewable resources beginning
15 January 1, 2007, that fully compensates the electrical corporation
16 and the Department of Water Resources for the customer's
17 proportionate share of costs consistent with subdivisions (d), (e),
18 (f), and (g) of Section 366.1.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the
24 penalty for a crime or infraction, within the meaning of Section
25 17556 of the Government Code, or changes the definition of a
26 crime within the meaning of Section 6 of Article XIII B of the
27 California Constitution.