

Senate Bill No. 1467

Passed the Senate August 25, 2010

Secretary of the Senate

Passed the Assembly August 23, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 25217.5 of the Public Resources Code, and to amend Sections 394.27, 394.4, 394.7, 454.1, 1822, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2842.4, 2889.4, 2889.5, 2894, 7000, and 9607 of, to amend and renumber Sections 381.2 and 385.2 of, to add a heading as Chapter 5 (commencing with Section 8380) to Division 4.1 of, and to repeal Section 709.7 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1467, Padilla. Public Utilities Commission: reporting.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined.

This bill would correct certain existing references in the Public Utilities Code by revising “electric corporation” to “electrical corporation.”

(2) Under existing law, the PUC may establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law requires the commission to develop, publish, and annually update an annual work plan access guide that describes the scheduled ratemaking proceedings and other decisions that may be considered by the PUC during the calendar year, as prescribed. Existing law requires the president of the PUC to annually appear before the appropriate policy committees of the Senate and Assembly to report on the annual work plan access guide and to report on the annual report of the PUC on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings.

This bill would additionally require the Chair of the State Energy Resources Conservation and Development Commission to appear annually before these committees to report on the activities of that commission.

(3) The California High Speed Internet Access Act of 1999 (the act), among other things, requires the PUC to monitor and participate in a specified proceeding of the Federal

Communications Commission addressing whether to require incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point, to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

This bill would repeal the California High Speed Internet Access Act of 1999.

(4) Existing law regulating the provision of telecommunications services requires a local exchange service provider to provide prescribed consumer protections relating to pay-per-use telephone service features and verification of changes in service providers.

This bill would revise those provisions to refer to local exchange carriers instead of local exchange service providers.

(5) Under existing law, the disclosure of any information by an interexchange telephone corporation, a local exchange telephone corporation, or a provider of commercial mobile radio service, as defined, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against specified civil actions for the wrongful disclosure of that information.

This bill would revise that reference to a local exchange telephone corporation to, instead, refer to a local exchange carrier.

(6) This bill would make other technical and nonsubstantive changes.

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

SECTION 1. Section 25217.5 of the Public Resources Code is amended to read:

25217.5. The chair of the commission shall do both of the following:

(a) Direct the adviser, the executive director, and other staff in the performance of their duties in conformance with the policies and guidelines established by the commission.

(b) Annually appear before the Senate Committee on Energy, Utilities and Communications and the Assembly Committee on

Utilities and Commerce to report on the activities of the commission.

SEC. 2. Section 381.2 of the Public Utilities Code is amended and renumbered to read:

8380. (a) By March 1, 2010, the commission, by opening a new proceeding or amending an existing proceeding, shall investigate the ability of electrical corporations and gas corporations to provide various energy efficiency financing options to their customers for the purposes of implementing the program developed pursuant to Section 25943 of the Public Resources Code.

(b) In the report prepared pursuant to Section 384.2, the commission shall include an assessment of each electrical corporation's and each gas corporation's implementation of the program developed pursuant to Section 25943 of the Public Resources Code.

SEC. 3. Section 385.2 of the Public Utilities Code is amended and renumbered to read:

8385. (a) Upon the completion and promulgation of regulations pursuant to subdivision (a) of Section 25943 of the Public Resources Code, each governing body of a local publicly owned electric utility, as defined in Section 224.3, shall be responsible for implementing an energy efficiency program that recognizes the intent of the Legislature to encourage energy savings and greenhouse gas emission reductions in existing residential and nonresidential buildings, while taking into consideration the effect of the program on rates, reliability, and financial resources.

(b) In the report prepared pursuant to Section 9615, each local publicly owned electric utility shall include both of the following:

(1) The utility's status in implementing an energy efficiency program pursuant to subdivision (a) and the utility's progress toward attaining the goal of the program.

(2) The net energy savings from energy efficiency improvements installed pursuant to this section.

SEC. 4. Section 394.27 of the Public Utilities Code is amended to read:

394.27. When a customer files a claim with an electrical corporation for damages to property resulting from the curtailment of electric service due to the failure of the electrical corporation to reasonably provide service or restore service within a reasonable time after a fire, flood, earthquake, other natural disaster, or act of

God, the electrical corporation shall inform the customer that such claim may be pursued in small claims court or other judicial courts, depending on the amount of the claim.

SEC. 5. Section 394.4 of the Public Utilities Code is amended to read:

394.4. Rules that implement the following minimum standards shall be adopted by the commission for electric service providers offering electrical services to residential and small commercial customers and the governing body of a public agency offering electrical services to residential and small commercial customers within its jurisdiction:

(a) Confidentiality: Customer information shall be confidential unless the customer consents in writing. This shall encompass confidentiality of customer specific billing, credit, or usage information. This requirement shall not extend to disclosure of generic information regarding the usage, load shape, or other general characteristics of a group or rate classification, unless the release of that information would reveal customer specific information because of the size of the group, rate classification, or nature of the information.

(b) Physical disconnects and reconnects: Only an electrical corporation, or a publicly owned electric utility, that provides physical delivery service to the affected customer shall have the authority to physically disconnect or reconnect a customer from the transmission or distribution grid. Physical disconnection by electrical corporations subject to the commission's jurisdiction shall occur only in accordance with protocols established by the commission. Physical disconnection by publicly owned electric utilities shall occur only in accordance with protocols established by the governing board of the local publicly owned electric utility.

(c) Change in providers: Upon adequate notice supplied by an electric service provider to the electrical corporation or local publicly owned electric utility providing physical delivery service, customers who are eligible for direct access may change their energy supplier. Energy suppliers may charge for this change, provided that any fee or penalty charged by the supplier associated with early termination of service, shall be disclosed in that contract or applicable tariff.

(d) Written notices: Notices describing the terms and conditions of service as described in Section 394.5, service agreements,

notices of late payment, notices of discontinuance of service, and disconnection notices addressed to residential and small commercial customers shall be easily understandable, and shall be provided in the language in which the electric service provider offered the services.

(e) Billing: All bills shall have a standard bill format, as determined by the commission or the governing body, and shall contain sufficient detail for the customer to recalculate the bill for accuracy. Any late fees shall be separately stated. Each electric service provider shall provide on all customer bills a phone number by which customers may contact the electric service provider to report and resolve billing inquiries and complaints. An electric service provider contacted by a customer regarding a billing dispute shall advise the customer at the time of the initial contact that the customer may file a complaint with the commission if its dispute is not satisfactorily resolved by the electric service provider.

(f) Meter integrity: An electric customer shall have a reasonable opportunity to have its meter tested to ensure the reasonable accuracy of the meter. The commission or governing body shall determine who is responsible for the cost of that testing.

(g) Customer deposits: Electric service providers may require customer deposits before commencing service, but in no event shall the deposit be more than the estimated bill for the customer for a three-month period.

(h) Additional protections: The commission or the governing body may adopt additional residential and small commercial consumer protection standards that are in the public interest.

SEC. 6. Section 394.7 of the Public Utilities Code is amended to read:

394.7. (a) The commission shall maintain a list of residential and small commercial customers who do not wish to be solicited by telephone, by an electrical corporation, marketer, broker, or aggregator for electric service, to subscribe to or change their electric service provider. The commission shall not assess a charge for inclusion of a customer on the list. The list shall be updated periodically, but no less than quarterly.

(b) The list shall include sufficient information for electrical corporations, marketers, brokers, or aggregators of electric service to identify customers who do not wish to be solicited, including a customer's address and telephone number. The list shall be made

accessible electronically from the commission to any party regulated as an electrical corporation or registered at the commission as an electric marketer, broker, or aggregator of electric service.

(c) An electrical corporation, marketer, broker, or aggregator of electric service shall not solicit, by telephone, any customer on the list prepared pursuant to subdivision (a). Any electrical corporation, marketer, broker, or aggregator of electric service, or the representative of an electrical corporation, marketer, broker, or aggregator of electric service, who solicits any customer on the list prepared pursuant to subdivision (a) more than once shall be liable to the customer for twenty-five dollars (\$25) for each contact in violation of this subdivision.

(d) This section shall not apply to the telephone verification required pursuant to Section 366.5.

SEC. 7. Section 454.1 of the Public Utilities Code is amended to read:

454.1. (a) Except as provided in subdivision (b), if a customer with a maximum peak electrical demand in excess of 20 kilowatts located or planning to locate within the service territory of an electrical corporation receives a bona fide offer for electric service from an irrigation district at rates less than the electrical corporation's tariffed rates, the electrical corporation may discount its noncommodity rates, but may not discount its noncommodity rates below its distribution marginal cost of serving that customer. For purposes of this subdivision, the costs of the electric commodity shall be excluded from both the irrigation district and electrical corporation's rates. The electrical corporation may recover any difference between its tariffed and discounted service from its remaining customers, allocated as determined by the commission. However, the reallocation may not increase rates to its remaining customers by any greater amount than the rates would be increased if the customer had taken electric distribution service from the irrigation district and the irrigation district had paid the charge established in subdivision (e) of Section 9607. Further, there shall be a firewall preventing the reallocation of such differences resulting from discounting to residential customers or to commercial customers with maximum peak demands not in excess of 20 kilowatts. The commission shall review the discounts provided under this section by each electrical corporation and

report to the Legislature not later than January 15, 2003. The review shall include an assessment of the effectiveness of the discount levels and the rate impacts to customers of the discounts. The commission shall include in its report a recommendation of any changes that should be made to the discount levels in light of other commission approved discount programs.

(b) Subdivision (a) does not apply to a cumulative 75 megawatts of load served by the Merced Irrigation District, determined as follows:

(1) The load is located within the boundaries of Merced Irrigation District, as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base which was located outside the district on that date.

(2) For purposes of this section, a megawatt of load shall be calculated in accordance with the methodology established by the California Energy Resource Conservation and Development Commission in its Docket No. 96-IRR-1890.

(c) Subdivision (a) applies to the load of customers that move to the areas described in paragraph (1) of subdivision (b) after December 31, 2000, and such load shall be excluded from the calculation of the 75 megawatts in subdivision (b).

(d) If an electrical corporation seeks to apply the discounts permitted under subdivision (a) within the geographic area described in subdivision (b) of Section 9610, the electrical corporation's resulting rate for distribution service may not be less than 120 percent of the electrical corporation's marginal distribution cost of serving that customer.

SEC. 8. Section 709.7 of the Public Utilities Code is repealed.

SEC. 9. Section 1822 of the Public Utilities Code is amended to read:

1822. (a) Any computer model that is the basis for any testimony or exhibit in a hearing or proceeding before the commission shall be available to, and subject to verification by, the commission and parties to the hearing or proceedings to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, except that verification is not required for any electricity demand model or forecast prepared by the State Energy Resources Conservation and Development Commission pursuant to Section 25309 or 25402.1 of the Public Resources Code and approved and adopted after a hearing during which

testimony was offered subject to cross-examination. The commission shall afford each of these electricity demand models or forecasts the evidentiary weight it determines appropriate. Nothing in this subdivision requires the State Energy Resources Conservation and Development Commission to approve or adopt any electricity demand model or forecast.

(b) Any testimony presented in a hearing or proceeding before the commission that is based in whole, or in part, on a computer model shall include a listing of all the equations and assumptions built into the model.

(c) Any database that is used for any testimony or exhibit in a hearing or proceeding before the commission shall be reasonably accessible to the commission staff and parties to the hearing or proceeding to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, as applied in commission proceedings.

(d) The commission shall adopt rules and procedures to meet the requirements specified in subdivisions (a), (b), and (c). These rules shall include procedural safeguards that protect databases and models not owned by the public utility.

(e) The commission shall establish appropriate procedures for determining the appropriate level of compensation for a party's access.

(f) Each party shall have access to the computer programs and models of each other party to the extent provided by Section 1822. The commission shall not require a utility to provide a remote terminal or other direct physical link to the computer systems of a utility to a third party.

(g) The commission shall verify, validate, and review the computer models of any electrical corporation that are used for the purpose of planning, operating, constructing, or maintaining the corporation's electricity transmission system, and that are the basis for testimony and exhibits in hearings and proceedings before the commission.

(h) The transmission computer models shall be available to, and subject to verification by, each party to a commission proceeding in accordance with subdivision (a) of Section 1822, and regulations adopted pursuant to subdivision (d) of Section 1822.

SEC. 10. Section 2791 of the Public Utilities Code is amended to read:

2791. (a) The owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents may transfer ownership and operational responsibility to the gas or electrical corporation providing service in the area in which the park or community is located pursuant to this chapter, or as the park or community owner and the serving gas or electrical corporation mutually agree.

(b) Costs, including both costs related to transfer procedures and costs related to construction, related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or electrical corporation, shall not be passed through to the park or community residents. Costs related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or electrical corporation, shall not be passed through to the gas or electrical corporation, except as otherwise provided in this chapter.

(c) Residents of mobilehome parks and manufactured housing communities constructed after January 1, 1997, shall be individually metered and served by gas and electric distribution facilities owned, operated, and maintained by the gas or electrical corporation providing the service in the area where the new park or community is located consistent with the commission's orders regarding unbundling, aggregation, master-metering, and selection of suppliers by residential customers. Each gas and electrical corporation shall cooperate with the owner of any park or community constructed after January 1, 1997, to ensure timely and expeditious installation of the gas and electric distribution system and to eliminate any delay in the design, construction, permitting, and operation of the gas and electric system in the park or community.

SEC. 11. Section 2792 of the Public Utilities Code is amended to read:

2792. (a) Upon receipt of a written notice of intent to transfer from the mobilehome park or manufactured housing community owner, the gas or electrical corporation shall, within 90 days, do all of the following:

(1) Meet with the park or community owner to describe the procedures involved in a transfer of ownership and operation responsibility.

(2) Perform a preliminary review of the gas or electric system, or both, in the park or community.

(3) Inspect documentation provided by the park or community owner of the construction, operation, and condition of the gas or electric system, or both.

(4) Advise the park or community owner concerning the general condition of the plant and equipment, along with a preliminary opinion concerning the extent of construction work or other activity necessary to comply with Section 2794.

(5) Offer a preliminary nonbinding estimate of the cost of transfer.

(6) Offer the park or community owner a preliminary nonbinding cost estimate to perform an engineering evaluation and estimate the construction work and equipment replacement to be performed by the gas or electrical corporation at the owner's expense.

(b) The gas or electrical corporation shall develop the cost estimate for the engineering evaluation in good faith using the same methodology as is used for similar projects. The preliminary cost estimate shall be effective for a minimum of 90 days. The gas or electrical corporation shall give the owner timely notice of any increase in the estimated cost of the engineering evaluation.

(c) During 1997, gas and electrical corporations shall make a good faith effort to respond within 90 days to the notice provided in subdivision (a).

(d) The gas or electrical corporation may charge a fee for the initial inspection not to exceed one hundred fifty dollars (\$150).

SEC. 12. Section 2793 of the Public Utilities Code is amended to read:

2793. (a) Upon receipt from the park or community owner of a deposit representing the gas or electrical corporation's estimated cost of the engineering evaluation, the gas or electrical corporation shall, within 90 days, do all of the following:

(1) Develop an engineering plan for bringing the gas or electric system to the standard described in Section 2794, incorporating all relevant documentation including plans, drawings, engineering studies, and other existing documentation provided by the park or community owner, and considering incorporation of all portions of the gas or electric system found to be used, useful, and compatible.

(2) Develop an appraisal of the value to the gas or electrical corporation of the physical plant and equipment found to be used, useful, and compatible that comprise the gas or electric system, or both, to be transferred, including an estimate of the remaining useful life of the gas or electric system. The value to the gas or electrical corporation shall take into consideration the expenditures by the park or community owner to comply with the criteria established in Section 2794.

(3) Present a proposal, in sufficient detail to serve as a bid document for the transfer of ownership of the system to the gas or electrical corporation.

(b) The proposal may be based on either of the following approaches or as the park or community owner and the gas or electrical corporation mutually agree:

(1) The park or community owner is responsible for all construction and equipment replacement activity, if any, at the park or community owner's expense less any credits or allowances, if any, including credits or allowances based on incremental increases in the gas or electrical corporation's revenues associated with the park or community owner's investment in the gas or electric system. The construction and equipment replacement and the credits and allowances shall be based on the principles established in the gas or electrical corporation's line and service extension rules, if applicable.

(2) The gas or electrical corporation shall pay the park or community owner for the appraised value to the gas or electrical corporation of any gas or electric distribution facilities found to be used, useful, and compatible. If any new facilities are necessary, the park or community owner shall be responsible for the costs of the excavation, installation of substructures, conduit and meter panels, and surface repairs. Except as provided in paragraph (4) of subdivision (c), the gas or electrical corporation shall be responsible for the costs of any additional construction and equipment replacement, including cabling and transformers.

(c) The proposal shall include the following:

(1) A description of construction and equipment replacement activity, if any, to be accomplished at the park or community owner's expense.

(2) Requirements for any additional provisions or rights for the construction or maintenance of public utility facilities on park or

community premises, including easements and rights-of-way acceptable to the gas or electrical corporation.

(3) Any specific requirements or costs, or both, with respect to the presence of used and useful materials or equipment that are nonstandard, including, but not limited to, inventory requirements, specialized equipment requirements, or specialized personnel or training.

(4) Any specific requirements or costs, or both, with respect to the presence of exceptional construction conditions or operation and maintenance conditions.

(d) If the actual cost of the engineering evaluation is greater than the gas or electrical corporation estimate, the park or community owner shall pay the gas or electrical corporation the difference within 30 days of receipt of notice. If the actual cost of the engineering evaluation is less than the deposit, the gas or electrical corporation shall pay the park or community owner the difference within 30 days. The content of the proposal shall become the property of the park or community owner.

(e) Within 90 days of receipt of the proposal for transfer of ownership, a park or community owner may do any of the following:

(1) Present objections to the gas or electrical corporation in writing for resolution and may require mediation of the commission if the parties are unable to resolve the objection.

(2) Decline to proceed, without prejudice to the right to present a new notice at any future date.

(3) Accept the proposal and contract with the gas or electrical corporation for completion of the construction work and equipment replacement, if any, or the acquisition of the gas or electric system, or both.

(4) Accept the proposal and contract with an approved third party for completion of the construction work and equipment replacement, if any, in accordance with the applicable gas or electrical corporation applicant installation rules.

(f) Any new facilities provided by the gas or electrical corporation to extend distribution or service facilities from the existing gas or electrical corporation system within the park to previously undeveloped locations shall be provided in accordance with line extension rules and service extension rules contained in gas or electrical corporation tariffs filed with the commission,

including any and all free extensions, allowances, and advances subject to refund.

(g) Upon completion of construction work and equipment replacement, if any, receipt of appropriate inspection approval from the gas or electrical corporation and authorities having jurisdiction for the inspections, and completion of all financial transactions among the parties, the park or community owner shall transfer and the gas or electrical corporation shall acquire ownership and operational responsibility for the gas or electric system.

(h) Upon receipt of the proposal described in paragraph (3) of subdivision (a), the park or community owner shall notify the park residents concerning the pendency of a transfer process request and the provisions of the transfer process law.

SEC. 13. Section 2794 of the Public Utilities Code is amended to read:

2794. (a) A gas or electric system shall be considered acceptable for transfer if it is in compliance with the following criteria:

(1) It is capable of providing the end users a safe and reliable source of gas or electric service.

(2) It meets the commission's general orders, is compatible, and, in the case of new construction, meets the gas or electrical corporation's design and construction standards insofar as they are related to safety and reliability. The parties may waive these requirements by mutual agreement and, where necessary, with commission approval. The deviations as are agreed upon may be reflected in the purchase price.

(3) It is capable of serving the customary expected load in the park or community determined in accordance with a site-specific study, studies of comparable parks or communities, industry standards, and the gas or electrical corporation's rules as approved by the commission.

(b) As used in this section, "customary expected load" means the anticipated level of service demanded by the dwelling units in the park or community. The park or community owner shall not be responsible for betterments or improvements to the gas or electrical corporation's distribution system facilities or operations that do not benefit the park or community.

(c) Satisfaction of the criteria shall not require any particular system architecture or replacement of used and useful equipment, plant, or facilities, except as needed to comply with subdivision (a). Equipment, facilities, or plant that are part of the existing gas or electric system shall be considered compatible unless their presence in the system would cause substantial increase in the frequency or duration of outages in the case of failure or emergency, or they have no remaining useful life. Pursuant to subdivision (c) of Section 2793, equipment, facilities, or plant that require special training for the gas or electrical corporation's employees, or require the gas or electrical corporation to maintain inventories of nonstandard equipment may be considered compatible, but their presence may be reflected in the appraised value or the cost imposed on the park or community owner.

SEC. 14. Section 2795 of the Public Utilities Code is amended to read:

2795. The park or community owner and the gas or electrical corporation shall develop a cost for the transfer of the gas or electric system that reflects the factors in Section 2793, indemnity and liability issues, and any other factors as the parties may mutually agree upon, and to which the gas or electrical corporation's ratepayers are indifferent. The parties may agree on a schedule for phasing in facilities to meet expected load increases and betterments, and the costs associated with those activities.

SEC. 15. Section 2796 of the Public Utilities Code is amended to read:

2796. (a) During the pendency of a transfer request, the owner of the park or community shall be responsible for the continued maintenance to preserve the integrity of the park or community gas or electric system and safe and reliable operation of the park or community system in accordance with applicable laws.

(b) During the pendency of a transfer request the owner of the park or community shall be liable for injury and damage resulting from operation of the submetered gas and electric system. After transfer, the gas or electrical corporation shall assume responsibility for operation of the gas or electric system and provision of service to residents of the park or community and shall assume liability for any future injury or damage resulting from operation of the gas or electric system except with respect to defects known to the

park or community owner and not disclosed to the gas or electrical corporation during the transfer of ownership process.

SEC. 16. Section 2797 of the Public Utilities Code is amended to read:

2797. The commission shall permit the gas or electrical corporation to recover in its revenue requirement and rates all costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems.

SEC. 17. Section 2798 of the Public Utilities Code is amended to read:

2798. The commission shall adopt a standard form of agreement for transfer of gas and electric distribution facilities in mobilehome parks and manufactured housing communities that shall be the basis for expedited approval of the transfers. The contract shall be based on this chapter, the regulations of the commission, and on gas or electrical corporation rules and regulations, as approved by the commission.

SEC. 18. Section 2799 of the Public Utilities Code is amended to read:

2799. (a) The mobilehome park or manufactured housing community owner may, by written notice, stop the transfer process at any time. Within 60 days of delivery to the park or community owner of an itemized bill, the owner shall reimburse the gas or electrical corporation for all costs incurred through the date notice is provided.

(b) At any time during the transfer of ownership process, either party may apply to the commission for informal mediation and resolution of any issue, finding, determination, or delay in the conversion process.

(c) If the initiation of the transfer process does not result in a transfer of the park or community owner's gas or electric system to the gas or electrical corporation, all information, data, reports, studies, and proposals shall be retained by the gas or electrical corporation for a period of five years or offered to the park or community owner. Prior to disposal of the records, the gas or electrical corporation shall offer them to the park or community owner, except that the gas or electrical corporation shall not be required to provide proprietary information to the park or community owner.

SEC. 19. Section 2842.4 of the Public Utilities Code is amended to read:

2842.4. (a) The commission shall, for each electrical corporation, establish a pay-as-you-save pilot program for eligible customers.

(b) For the purposes of this section, an “eligible customer” means a customer of an electrical corporation that meets the following criteria:

(1) The customer uses a combined heat and power system with a generating capacity of not more than 20 megawatts that is in compliance with Section 2843.

(2) The customer is any of the following:

(A) A nonprofit organization described in Section 501(c) (3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c) (3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)).

(B) A federal, state, or local government facility.

(c) The pilot program shall enable an eligible customer to finance all of the upfront costs for the purchase and installation of a combined heat and power system by repaying those costs over time through on-bill financing at the difference between what an eligible customer would have paid for electricity and the actual savings derived for a period of up to 10 years.

(d) The commission shall ensure that the reasonable costs of the electrical corporation associated with the pilot program are recovered.

(e) All costs of the pay-as-you-save program or financing mechanisms shall be borne solely by the combined heat and power generators that use the program or financing mechanisms, and the commission shall ensure that the costs of the program are not shifted to the other customers or classes of customers of the electrical corporation.

(f) Each electrical corporation shall make on-bill financing available to eligible customers until the statewide cumulative rated generating capacity from pilot program combined heat and power systems in the service territories of the three largest electrical corporations in the state reaches 100 megawatts. An electrical corporation shall only be required to participate in the pilot program until it meets its proportionate share of the 100-megawatt limitation, based on the percentage of its peak demand to the total

statewide peak demand within the service territories of all electrical corporations.

(g) An approval made by the Department of Finance for a state agency to purchase, lease, or otherwise acquire a combined heat and power facility that would be financed through the pay-as-you-save pilot program, may not be made sooner than 30 days after written notification thereof is provided to the Chairperson of the Senate Committee on Budget and Fiscal Review, the Chairperson of the Assembly Committee on Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine.

SEC. 20. Section 2889.4 of the Public Utilities Code is amended to read:

2889.4. (a) A local exchange carrier that offers and charges for pay per use features that do not require an access code to be dialed to activate the service shall provide a new residential subscriber, including an existing residential customer ordering an additional line, during the verbal service order process, with information about those features. The representatives of a carrier shall offer that subscriber blocking options for those features.

(b) (1) A local exchange carrier that offers the features described in subdivision (a) shall advise an existing residential subscriber who inquires about the features, or who seeks a bill adjustment for the inadvertent or unauthorized use of those per use custom calling features, that the features can be blocked and shall inquire as to whether the subscriber would like to block any or all of the features.

(2) (A) A local exchange carrier that offers the features described in subdivision (a) shall provide notice to all existing residential subscribers not later than May 1, 2000, describing all features provided on a per use basis, the charge for each activation, any additional usage or other charges, and detailed information about the ability to block these features.

(B) The notice shall contain a toll-free number for further information and shall contain a noticeable postcard size bill insert that may be returned in the subscriber's bill envelope if they wish to block any or all of the per use features described in subdivision (a).

(c) A local exchange service subscriber that has not blocked per use features in accordance with this section is entitled to a one-time bill adjustment that shall equal the sum of the charges for every incident that occurred during the first billing cycle pursuant to which the subscriber notifies the local exchange carrier that inadvertent or unauthorized activation occurred with regard to those per use services that do not require coded dialing to activate. The one-time bill adjustment shall include an adjustment for any additional usage charges occurring as a result of inadvertent or unauthorized activation. The adjustment shall take the form of a credit to the subscriber's account if the existing technology or facilities of the local exchange carrier measure usage and permit a usage credit to be determined and provided.

(d) Nothing in this section prohibits a local exchange carrier from providing additional bill adjustments at its discretion in connection with charges imposed for features described in subdivision (a).

SEC. 21. Section 2889.5 of the Public Utilities Code is amended to read:

2889.5. (a) A telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall not make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until all of the following steps have been completed:

(1) The telephone corporation, its representatives or agents shall thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) The telephone corporation, its representatives or agents shall specifically establish whether the subscriber intends to make any change in his or her telephone service provider, and explain any charges associated with that change.

(3) For sales of residential service, the subscriber's decision to change his or her telephone service provider shall be confirmed by an independent third-party verification company, or as provided in paragraph (5). For purposes of this provision, the confirmation by a third-party verification company shall be made as follows:

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

(i) Be independent from the telephone corporation that seeks to provide the subscriber's new service.

(ii) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by the telephone corporation that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the telephone corporation.

(iii) Operate from facilities physically separate from those of the telephone corporation that seeks to provide the subscriber's new service.

(iv) Not derive commissions or compensation based upon the number of sales confirmed.

(B) The telephone corporation seeking to verify the sale shall do so by connecting the subscriber by telephone to the third-party verification company or by arranging for the third-party verification company to call the subscriber to confirm the sale.

(C) The third-party verification company shall obtain the subscriber's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the subscriber upon request. Information obtained from the subscriber through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved subscriber against the telephone corporation or its employees who are responsible for the violation.

(D) Notwithstanding subparagraphs (A), (B), and (C), a service provider shall not be required to comply with these verification requirements when the customer directly calls the local service provider to make changes in service providers. However, a service provider shall not avoid the verification requirements by asking a subscribing customer to contact a local exchange carrier directly to make any change in the service provider. A local exchange carrier shall be required to comply with these verification requirements for its own competitive services. However, a local exchange carrier shall not be required to perform any verification requirements for any changes solicited by another telephone corporation.

(4) For a sale of residential service, the telephone corporation seeking to verify the change in service, in addition to the requirements of paragraph (3), shall notify the subscriber by United

States Postal Service that the subscriber's telephone service provider has been changed. The service provider that initiated the change shall send that notice within 14 days of the date of the change. The notice shall provide the subscriber with clear, legible notice of the change in service provider, and shall include a customer service telephone number for the subscriber to call if the subscriber did not authorize the change in service.

(5) Confirmation of a sale of residential service may be made using an electronic means that complies with Section 64.1120 of Title 47 of the Code of Federal Regulations in effect as of June 17, 2008.

(6) For sales of all nonresidential services, the subscriber's decision to change his or her service provider shall be confirmed through any of the following means:

(A) Independent third-party verification, as set forth in paragraph (3).

(B) The telephone corporation shall mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation. The information package shall describe the new service and shall include a postage prepaid postcard or mailer that the subscriber can use to deny, cancel, or confirm a service order, as soon as possible, and wait 14 days after the information package is mailed before making the change in the telephone corporation. The telephone corporation shall make the change only if the subscriber does not cancel the change in service order.

(C) Verify the subscriber's change in his or her telephone service provider by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document, the sole purpose of which is to explain the nature and extent of the action.

(D) Obtain the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent.

(7) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full

understanding of the relationship being established with the telephone corporation. If a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document, the sole purpose of which is to explain the nature and extent of the action. If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

(8) The telephone corporation shall retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber, the Attorney General, or the commission upon request.

(b) If a residential or business subscriber that has not signed an authorization notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that initiated the change.

(c) For purposes of this section, competitive services are those services where subscribers have the ability to presubscribe to a telephone service provider.

(d) When a subscriber changes telephone service providers, the change shall be conspicuously noticed on the subscriber's bill. Notice in the following form is deemed to comply with this subdivision:

“NOTICE: Your local (or long distance) telephone service provider has been changed from (name of prior provider) to (name of current provider).

Cost of change: \$ ____.”

(e) Any telephone corporation that violates the verification procedures described in this section shall be liable to the telephone corporation previously selected by the subscriber in an amount equal to all charges paid by the subscriber after the violation.

(f) In addition to the liability described in subdivision (e), any telephone corporation that violates the verification procedures described in this section shall credit to a subscriber any charges paid by the subscriber in excess of the amount that the subscriber

would have been obligated to pay had the subscriber's telephone service not been changed. The commission shall adopt regulations to govern credits to subscribers pursuant to this subdivision.

(g) The remedies provided by this section are in addition to any other remedies available by law.

(h) As described in federal law, no telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber without having on file, or having instituted reasonable steps designed to obtain, signed, dated orders for service from the subscriber. All orders shall be in the form prescribed in federal law for letters of agency. As described in federal law, the telephone corporation is responsible for charges associated with disputed changes in telephone service for which it cannot produce a signed, dated order for service from the subscriber. This subdivision applies to all intrastate services for which competition has been authorized.

SEC. 22. Section 2894 of the Public Utilities Code is amended to read:

2894. (a) Notwithstanding subdivision (e) of Section 2891, the disclosure of any information by an interexchange telephone corporation, a local exchange carrier, or a provider of commercial mobile radio service, as defined in Section 216.8, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against any civil action brought under this chapter or any other law, including, but not limited to, Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code, for the wrongful disclosure of that information.

(b) As used in this section the following terms have the following meanings:

(1) "Interexchange telephone corporation" means a telephone corporation that is a long-distance carrier.

(2) "Local exchange carrier" means a telephone corporation that provides local exchange services.

SEC. 23. Section 7000 of the Public Utilities Code is amended to read:

7000. (a) For purposes of this chapter, a utility shall mean all of the following:

- (1) An electrical corporation.
- (2) A water corporation.
- (3) A telephone corporation.
- (4) A telecommunications carrier, as defined in Section 153 of Title 47 of the United States Code.

- (5) A gas corporation.
- (6) A local publicly owned electric utility and a publicly owned gas utility.

(7) A special district that owns or operates utilities.

(b) This chapter shall also apply to the following entities:

- (1) A cable television corporation.
- (2) A cable operator, as defined in Section 522 of Title 47 of the United States Code.

SEC. 24. The heading of Chapter 5 (commencing with Section 8380) is added to Division 4.1 of the Public Utilities Code, to read:

CHAPTER 5. COMPREHENSIVE ENERGY EFFICIENCY PROGRAM
IMPLEMENTATION

SEC. 25. Section 9607 of the Public Utilities Code is amended to read:

9607. (a) The intent of this section is to avoid cost-shifting to customers of an electrical corporation resulting from the transfer of distribution services from an electrical corporation to an irrigation district.

(b) Except as otherwise provided in this section and Section 9608, and notwithstanding any other provision of law, an irrigation district that offered electric service to retail customers as of January 1, 1999, may not construct, lease, acquire, install, or operate facilities for the distribution or transmission of electricity to retail customers located in the service territory of an electrical corporation providing electric distribution services, unless the district has first applied for and received the approval of the commission and implements its service consistent with the commission's order. The commission shall find that service to be in the public interest and shall approve the request of a district to

provide distribution or transmission of electricity to retail customers located in the service territory of an electrical corporation providing electric distribution service if, after notice and hearing, the commission determines all of the following:

(1) The district will provide universal service to all retail customers who request service within the area to be served, at published tariff rates and on a just, reasonable, and nondiscriminatory basis, comparable to that provided by the current retail service provider.

(2) If the area the district is proposing to serve is either of the following:

(A) Is within the district's boundaries but less than the entire district, the area to be served includes a percentage of residential customers and small customers, based on load, comparable to the percentage of residential and small customers in the district, based on load.

(B) Includes territory outside the district's boundaries, in which case the territory outside the district's boundaries must include a percentage of residential customers and small customers, based on load, comparable to the percentage of residential and small customers in the county or counties where service is to be provided, based on load.

(3) Service by the district will be consistent with the intent of the state to avoid economic waste caused by duplication of facilities as set forth in Section 8101.

(4) Service by the district will include reasonable mitigation of any adverse effects on the reliability of an existing service by the electrical corporation.

(5) The district has established, funded, and is carrying out public purpose and low-income programs comparable to those provided by the current electric retail service provider.

(6) That district's tariffed electric rates, exclusive of commodity costs, will be at least 15 percent below the tariffed electric rates, exclusive of commodity costs and nonbypassable charges under Sections 367, 368, 375, 376, and 379, of the electrical corporation for comparable services.

(7) Service by the district is in the public interest.

(c) An irrigation district that obtains the approval of the commission under this section to serve an area shall prepare an annual report available to the public on the total load and number

of accounts of residential, low-income, agricultural, commercial, and industrial customers served by the irrigation district in the approved service area.

(d) The commission shall have jurisdiction to resolve and adjudicate complaint cases brought against an irrigation district that offered electric service to retail customers as of January 1, 1999, by an interested party where the complaint concerns retail electric service outside the boundaries of the district and within the service territory of an electrical corporation. Nothing in this section grants the commission jurisdiction to adjudicate complaint cases involving retail electric service by an irrigation district inside its boundaries or inside an irrigation district's exclusive service territory.

(e) Any project involving electric transmission or distribution facilities to be constructed or installed by an irrigation district to serve retail customers located in the service territory of an electrical corporation providing electric distribution services shall comply with the California Environmental Quality Act, (Division 13 (commencing with Section 21000)) of the Public Resources Code. The county in which the construction or installation is to occur shall act as the lead agency. If a project involves the construction or installation of electric transmission or distribution facilities in more than one county, the county where the majority of the construction is anticipated to occur shall act as the lead agency.

(f) An irrigation district may not offer service to customers outside of its district boundaries before offering service to all customers within its district boundaries.

(g) This section does not apply to electric distribution service provided by Modesto Irrigation District to those customers or within those areas described in subdivisions (a), (b), and (c) of Section 9610.

(h) The provisions of this section shall not apply to (1) a cumulative 90 megawatts of load served by the Merced Irrigation District that is located within the boundaries of Merced Irrigation District, as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base which was located outside the District on that date, or (2) electric load served by the District which was not previously served by an electrical corporation that is located within the boundaries of Merced Irrigation District, as those boundaries existed on December 20,

1995, together with the territory of Castle Air Force Base which was located outside the District on that date.

(i) For purposes of this section, a megawatt of load shall be calculated in accordance with the methodology established by the California Energy Resource Conservation and Development Commission in its Docket No. 96-IRR-1890, but the 90 megawatts shall not include electrical usage by customers that move to the areas described in paragraph (1) after December 31, 2000.

(j) Subdivision (a) of this section shall not apply to the construction, modification, lease, acquisition, installation, or operation of facilities for the distribution or transmission of electricity to customers electrically connected to a district as of December 31, 2000, or to other customers who subsequently locate at the same premises.

(k) In recognition of contractual arrangements and settlements existing as of June 1, 2000, this section does not apply to the acquisition or operation of the electric distribution facilities that are the subject of the Settlement Agreement dated May 1, 2000, between Pacific Gas and Electric Company and the San Joaquin Irrigation District.

(l) For purposes of this section, retail customers do not include an irrigation district's own electric load being served of retail by an electrical corporation.

Approved _____, 2010

Governor