

AMENDED IN SENATE SEPTEMBER 1, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 895

Introduced by Assembly Member Rendon

February 26, 2015

An act to amend Sections 16428.3 and 16428.5 of, and to add Section 16428.25 to, the Government Code, and to amend Section 453.5 of the Public Utilities Code, relating to utility rates.

LEGISLATIVE COUNSEL'S DIGEST

AB 895, as amended, Rendon. Utility rate refunds: energy crisis litigation.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. When the commission orders rate refunds to be distributed, existing law requires the commission to require the public utility to pay refunds to all current utility customers, and, when practicable, to prior customers, on an equitable pro rata basis without regard as to whether or not the customer is classifiable as a residential or commercial tenant, landlord, homeowner, business, industrial, educational, governmental, nonprofit, agricultural, or any other type of entity.

Existing law establishes the Ratepayer Relief Fund in the State Treasury to benefit electricity and natural gas ratepayers and to fund investigation and litigation costs of the state in pursuing allegations of overcharges and unfair business practices against generators, suppliers, or marketers of electricity or natural gas arising from the energy crisis of 2000–02. Existing law requires that any energy settlement agreement,

as defined, entered into by the Attorney General, after reimbursing the Attorney General's litigation and investigation expenses, direct settlement funds to the following purposes in priority order: (1) to reduce ratepayer costs of those utility ratepayers harmed by the actions of the settling parties; and (2) for deposit in the Ratepayer Relief Fund. Existing law authorizes the moneys deposited in the Ratepayer Relief Fund to be appropriated for certain purposes for the benefit of ratepayers.

This bill would *require the Attorney General or the Public Utilities Commission to enter into an energy settlement agreement solely on a monetary basis and would prohibit the agreement from including nonmonetary compensation in lieu of monetary compensation. The bill would prohibit the ~~Public Utilities Commission~~ commission from distributing or expending the proceeds of claims in any litigation or settlement to obtain ratepayer recovery for the effects of the 2000–02 energy crisis and would require that the ~~proceeds~~ proceeds, after reimbursing the commission's litigation and investigation expenses, be deposited into the Ratepayer Relief Fund. The bill would require the moneys in the fund to be appropriated for those purposes for the benefit of ratepayers.*

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

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

- 1 SECTION 1. Section 16428.25 is added to the Government
- 2 Code, immediately following Section 16428.2, to read:
- 3 16428.25. (a) The Attorney General or the Public Utilities
- 4 Commission shall enter into an energy settlement agreement solely
- 5 on a monetary basis. The energy settlement agreement shall not
- 6 include any nonmonetary compensation in lieu of monetary
- 7 compensation.
- 8 (b) The section does not apply to a settlement agreement entered
- 9 into before January 1, 2016.
- 10 SEC. 2. Section 16428.3 of the Government Code is amended
- 11 to read:
- 12 16428.3. ~~(a)~~ Any energy settlement agreement entered into
- 13 by the Attorney General, after reimbursing the Attorney General's
- 14 litigation and investigation expenses, to the maximum extent
- 15 possible, shall direct settlement funds to the following purposes
- 16 in priority order:

~~(1)~~

(a) To reduce ratepayer costs of those utility ratepayers harmed by the actions of the settling parties. To the extent the ratepayers of the investor-owned utilities were harmed, the settlement funds shall be directed to reduce their costs, to the maximum extent possible, through reduction of rates or the reduction of ratepayer debt obligations incurred as a result of the energy crisis.

~~(2)~~

(b) For deposit in the fund.

~~(b) Nothing in this article shall preclude nonmonetary compensation to the state through an energy settlement agreement, provided that the allocation of benefits from any nonmonetary compensation is consistent with paragraph (1) of subdivision (a).~~

SEC. 3. Section 16428.5 of the Government Code is amended to read:

16428.5. Moneys in the fund shall be expended upon appropriation by the Legislature, for the benefit of ratepayers. Moneys in the fund ~~may~~ *shall* be appropriated for the following purposes:

~~(a) To finance energy litigation and investigation expenses of state entities.~~

~~(b)~~

(a) To reduce rates for customers in the affected service areas of electrical utilities and gas utilities.

~~(c)~~

(b) To reduce the debt service on bonds issued pursuant to Division 27 (commencing with Section 80000) of the Water Code.

~~SECTION 4.~~

SEC. 4. Section 453.5 of the Public Utilities Code is amended to read:

453.5. (a) (1) If the commission orders rate refunds to be distributed, the commission shall require public utilities to pay refunds to all current utility customers, and, when practicable, to prior customers, on an equitable pro rata basis without regard as to whether or not the customer is classifiable as a residential or commercial tenant, landlord, homeowner, business, industrial, educational, governmental, nonprofit, agricultural, or any other type of entity.

(2) For the purposes of this section, “equitable pro rata basis” means in proportion to the amount originally paid for the utility

1 service involved, or in proportion to the amount of the utility
2 service actually received.

3 (3) This section shall not prevent the commission from
4 authorizing refunds to residential and other small customers to be
5 based on current usage.

6 (b) (1) The commission shall not distribute or expend the
7 proceeds of claims in any litigation or settlement to obtain ratepayer
8 recovery for the effects of the 2000–02 energy crisis.

9 (2) Proceeds of any claims *recovered by the commission* arising
10 out of the energy crisis of ~~2000–02~~ 2000–02, *after reimbursing*
11 *the commission's litigation and investigation expenses, to the*
12 *maximum extent possible*, shall be deposited into the Ratepayer
13 Relief Fund established pursuant to ~~Article 9.5 (commencing with~~
14 ~~Section 16428.1) of Chapter 2 of Part 2 of Division 4 of Title 2~~
15 *Section 16428.15 of the Government Code and expended, upon*
16 *appropriation, for purposes set forth in Section 16428.5 of the*
17 *Government Code.*

18 *SEC. 5. This act does not apply to any claims brought by an*
19 *electrical corporation, as defined in Section 218 of the Public*
20 *Utilities Code, that arise from the energy crisis of 2000–02.*