

AMENDED IN ASSEMBLY APRIL 14, 1999

AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1002

Introduced by Assembly Member Wright

February 25, 1999

An act to add Article 10 (commencing with Section 890) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to public utilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1002, as amended, R. Wright. Natural gas: consumption surcharge.

(1) The Public Utilities Act and other existing law requires electrical and gas corporations to create certain public purpose programs, including assistance to low-income customers and low-income weatherization. The act authorizes the Public Utilities Commission to allow the inclusion of expenses for research and development in rates to be charged by, among other utilities, gas corporations.

This bill, except as specified, would require the commission to impose a surcharge on all natural gas consumed in this state to fund those public purpose programs, cost-effective energy efficiency and conservation activities, and public interest research and development, as prescribed. The bill would require ~~utility and nonutility~~ a gas providers utility, as

described, to collect the surcharge from natural gas consumers, as specified. The money from the surcharge would be deposited in the Gas Consumption Surcharge Fund, which fund the bill would create, for continuous appropriation to specified entities, as prescribed. This bill would ~~authorize~~ *require* the commission to authorize a gas corporation to offer natural gas service to customers who partially or fully bypass the distribution system of the gas corporation at competitive market-based rates filed with the commission, as specified. Because a violation of the act is a crime, this bill would impose a state-mandated local program by creating a new crime. The bill would make legislative findings and declarations relating to the surcharge.

(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: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. (a) The Legislature finds and declares
2 that statutes and regulations have imposed programs and
3 fees, such as energy efficiency, public interest research
4 and development, low-income assistance, and
5 weatherization programs, upon regulated gas utilities
6 that have public policy goals not directly related to the
7 provision of gas service. The costs borne by gas utilities to
8 provide these programs have historically been recovered
9 through gas rates established by the Public Utilities
10 Commission.

11 (b) The Legislature also finds and declares that, due to
12 changes in state and federal regulations, the monopolies
13 for the provisions of gas service in California that
14 effectively permitted the commission to allocate the cost
15 of these public policy programs to all gas users are being
16 replaced with competitive markets. Gas customers may



1 continue to take advantage of the deregulation of the gas
2 industries by obtaining service from nonregulated gas
3 providers who are not required to provide these
4 programs. Thus, these customers do not pay the costs of
5 public policy programs.

6 (c) It is the intent of the Legislature to continue public
7 policy programs in an equitable manner that will ensure
8 that all gas consumers will provide a fair share of adequate
9 funding for these programs without increasing the
10 current funding levels for these programs.

11 SEC. 2. Article 10 (commencing with Section 890) is
12 added to Chapter 4 of Part 1 of Division 1 of the Public
13 Utilities Code, to read:

14
15 Article 10. Natural Gas Surcharge

16
17 890. (a) No later than January 1, 2000, the
18 commission shall impose a surcharge, as provided in this
19 article, on all natural gas consumed in this state to fund
20 low-income assistance programs required by Sections
21 739.1, 739.2, and 2790, cost-effective energy efficiency and
22 conservation activities, and public interest research and
23 development authorized by Section 740 that is not
24 adequately provided by the competitive and regulated
25 markets. Upon implementation of this article, funding for
26 those programs shall be removed from the rates of gas
27 utilities.

28 (b) Except as specified in Section 898, a ~~utility gas~~
29 ~~provider, as described~~ *gas utility, as defined* in Section
30 891, shall collect the surcharge imposed pursuant to
31 subdivision (a) from any person consuming natural gas in
32 this state who receives gas service from the ~~utility gas~~
33 ~~provider. A nonutility gas provider, as described in~~
34 ~~Section 891, shall collect the surcharge imposed pursuant~~
35 ~~to subdivision (a) from any person consuming natural gas~~
36 ~~in this state who receives gas service from that nonutility~~
37 ~~gas provider.~~ *gas utility.*

38 (c) Except as specified in Section 898, all persons
39 consuming natural gas in this state *that has been*



1 *transported by a gas utility* shall be liable for the
2 surcharge imposed pursuant to subdivision (a).

3 (d) The commission shall annually determine the
4 amount of money required for the following year to
5 administer this chapter and fund the natural gas related
6 programs described in subdivision (a) for the service
7 territory of each ~~utility gas provider~~ *public utility gas*
8 *corporation*.

9 (e) The commission shall annually establish a
10 surcharge rate for each class of customer for the service
11 territory of each ~~utility gas provider~~ *public utility gas*
12 *corporation*. A customer of a ~~nonutility gas provider~~ *an*
13 *interstate gas pipeline, as defined in Section 891*, shall pay
14 the same surcharge rate as the customer of a ~~utility gas~~
15 ~~provider with comparable natural gas usage~~ *would pay if*
16 *the customer received service from the public utility gas*
17 *corporation in whose service territory the customer*
18 *resides*. The commission shall, in determining the total
19 retail natural gas transported within the service territory
20 of a utility gas provider for the purpose of establishing the
21 surcharge rate, shall rely on information reported in the
22 California Gas Report to determine the volumes of retail
23 gas transported within the service territory of the ~~utility~~
24 ~~gas provider~~ *public utility gas corporation*. The
25 commission shall allocate the surcharge for gas used by
26 noncore customers, including those customers who were
27 not subject to the surcharge prior to January 1, 2000, on
28 an equal cent per therm basis. The rates for core
29 customers shall not be affected by the inclusion of those
30 noncore customers who were not required to fund the
31 programs described in subdivision (a) prior to January 1,
32 2000.

33 (f) The commission shall notify the State Board of
34 Equalization of the surcharge rate for each class of
35 customer served by a ~~nonutility provider~~ *an interstate*
36 *pipeline* in the service territory of a ~~utility gas provider~~
37 *public utility gas corporation*.

38 (g) The State Board of Equalization shall notify each
39 ~~nonutility gas provider~~ *interstate pipeline* of the
40 surcharge rate for each class of customer within the



1 service territory of a ~~utility gas provider~~ *public utility gas*
2 *corporation*.

3 (h) The surcharge imposed pursuant to subdivision
4 (a) shall be in addition to any other charges for natural
5 gas sold or transported for consumption in this state. The
6 surcharge imposed pursuant to this article shall be
7 identified as a separate line item on all gas bills received
8 by each class of customer.

9 (i) Notwithstanding subdivision (a), ~~gas utilities~~
10 *public utility gas corporations* shall continue to collect in
11 rates those costs of programs associated with Sections
12 739.1, 739.2, and 2790 that are uncollected prior to the
13 operative date of this article.

14 ~~891. Each gas corporation transporting or selling~~
15 ~~natural gas for consumption in this state shall notify the~~
16 ~~State Board of Equalization that it is a utility gas provider.~~
17 ~~Each pipeline company transporting natural gas in this~~
18 ~~state that operates pursuant to a certificate issued by the~~
19 ~~Federal Energy Regulatory Commission and that is not~~
20 ~~regulated by the commission shall notify the State Board~~
21 ~~of Equalization that it is a nonutility natural gas provider.~~
22 ~~The State~~

23 891. (a) “Gas utility” means any public utility gas
24 corporation or interstate pipeline as defined in this
25 section.

26 (b) “Public utility gas corporation” means a public
27 utility gas corporation as defined in Section 216.

28 (c) “Interstate pipeline” means any entity that owns
29 or operates a natural gas pipeline delivering natural gas
30 to consumers in the state and is subject to rate regulation
31 by the Federal Energy Regulatory Commission.

32 (d) Each gas utility shall notify the State Board of
33 Equalization of its status under this section. The State
34 Board of Equalization may require any documentation
35 that it determines to be necessary to implement this
36 article.

37 892. The revenue from the surcharge imposed
38 pursuant to this article and collected by ~~utility gas~~
39 ~~providers and nonutility gas providers~~ *gas utilities* shall be
40 paid to the State Board of Equalization in the form of



1 remittances. The board shall transmit the payments to
2 the Treasurer who shall deposit the payments in the Gas
3 Consumption Surcharge Fund, which is hereby created
4 in the State Treasury.

5 893. The State Board of Equalization shall administer
6 the surcharge imposed pursuant to this article in
7 accordance with the Fee Collection Procedures Law
8 (Part 30 (commencing with Section 55001) of Division 2
9 of the Revenue and Taxation Code.

10 894. The State Board of Equalization may collect any
11 unpaid surcharge imposed pursuant to this article.

12 895. Notwithstanding Section 13340 of the
13 Government Code, funds in the Gas Consumption
14 Surcharge Fund are continuously appropriated, without
15 regard to fiscal years, as follows:

16 (a) To the commission or an entity designated by the
17 commission to fund programs pursuant to Sections 739.1,
18 739.2, and 2790.

19 (b) To the California Board for Energy Efficiency, or
20 an entity designated by the commission, to fund public
21 interest research and development not adequately
22 provided by the competitive and regulated markets.

23 (c) To pay the commission for its costs in carrying out
24 its duties and responsibilities under this article.

25 (d) To pay the State Board of Equalization for its costs
26 in administering this article.

27 896. "Consumption" means the use or employment of
28 natural gas. Consumption does not include the use or
29 employment of natural gas to generate power for sale, the
30 sale or purchase of natural gas for resale to end users, the
31 sale or use of gas for enhanced oil recovery, or natural gas
32 utilized in cogeneration technology projects to produce
33 electricity.

34 897. Nothing in this article impairs the rights and
35 obligations of parties to contracts approved by the
36 commission, *as the rights and obligations were*
37 *interpreted as of January 1, 1998.*

38 898. Notwithstanding Section 890, a municipality,
39 district, or public agency that provides programs similar
40 to those described in subdivision (a) of Section 890,



1 including home weatherization services or rate assistance
2 for low-income customers shall not be required to collect
3 a surcharge pursuant to this article from customers within
4 its service territory. A municipality, district, or public
5 agency shall be required to collect a surcharge pursuant
6 to this article from customers served by the municipality,
7 district, or public agency outside of its service territory
8 unless the commission determines that the entity offers
9 those customers services similar to those offered by gas
10 utilities as described in subdivision (a) of Section 890.

11 899. Sections 890 and 892 do not apply to any gas
12 customer of a municipality, district, or public agency
13 exempted by Section ~~895~~ 896 from collecting a surcharge.

14 900. The commission shall create an advisory board to
15 make recommendations regarding the most efficient and
16 cost-effective way to provide programs pursuant to
17 Sections 739.1, 739.2, and ~~2970~~ 2790 in a consistent manner
18 statewide by utility provider service territory. The
19 advisory board shall be comprised of representatives
20 from utility gas providers, nonutility gas providers, the
21 Office of Ratepayer Advocates, the Energy Division
22 within the commission, consumer groups,
23 community-based organizations providing programs,
24 and other interested parties. On or before July 1, 2000, the
25 advisory group shall prepare and submit to the
26 commission a report. The commission may accept, reject,
27 or modify the recommendations. On or before July 1,
28 2001, the commission shall implement efficient and
29 cost-effective programs pursuant to Sections 739.1, 739.2,
30 and ~~2970~~ 2790. The commission may conduct compliance
31 audits to ensure compliance with any commission order
32 or resolution relating to the implementation of programs
33 pursuant to Sections 739.1, 739.2, and ~~2970~~ 2790, *and may*
34 *conduct financial audits.*

35 901. (a) The Legislature finds and declares that
36 recent changes in the natural gas industry have provided
37 natural gas customers with the opportunity to take some
38 or all of their natural gas services from natural gas
39 providers regulated by the Federal Regulatory Energy
40 Commission. Despite these changes in the industry,



1 natural gas corporations regulated by the Public Utilities
2 Commission continue to have an obligation to serve
3 customers who partially or fully bypass their distribution
4 system.

5 (b) It is the intent of the Legislature to authorize gas
6 corporations to fulfill their obligation to serve customers
7 who partially or fully bypass the gas corporation's
8 distribution system by offering service at competitive
9 market-based rates.

10 (c) The commission shall authorize a gas corporation
11 to offer to provide natural gas service to customers who
12 partially or fully bypass the gas corporation's distribution
13 system at competitive market-based rates filed with the
14 commission.

15 (d) Notwithstanding subdivision (c), the commission
16 shall not approve any rate application that relieves the
17 gas corporation of the obligation to serve wholesale
18 customers where the bypass gas supply is natural gas
19 produced and consumed within the service territory of
20 the wholesale customer.

21 SEC. 3. No reimbursement is required by this act
22 pursuant to Section 6 of Article XIII B of the California
23 Constitution because the only costs that may be incurred
24 by a local agency or school district will be incurred
25 because this act creates a new crime or infraction,
26 eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition
29 of a crime within the meaning of Section 6 of Article
30 XIII B of the California Constitution.

