AMENDED IN ASSEMBLY APRIL 26, 1999

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 a gas 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 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~~ *repeal a specified existing tariff adopted by the commission and replace it with a tariff based on a prescribed calculation. The bill would require that new tariff to apply until the commission determines that workable competition exists, at which point the bill would require the commission to allow a public utility gas corporation, as defined, to provide service at competitive market-based rates. The bill would provide an unspecified definition of workable competition.* 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 *and the tariff*.

(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: $^2/_3$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

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

(b) The Legislature also finds and declares that, due to changes in state and federal regulations, the monopolies for the provisions of gas service in California that effectively permitted the commission to allocate the cost of these public policy programs to all gas users are being replaced with competitive markets. Gas customers may continue to take advantage of the deregulation of the gas industries by obtaining service from nonregulated gas providers who are not required to provide these programs. Thus, these customers do not pay the costs of public policy programs.

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

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

Article 10. Natural Gas Surcharge

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

(b) Except as specified in Section 898, a gas utility, as defined in Section 891, shall collect the surcharge imposed pursuant to subdivision (a) from any person consuming natural gas in this state who receives gas service from the gas utility.

(c) Except as specified in Section 898, all persons consuming natural gas in this state that has been transported by a gas utility shall be liable for the surcharge imposed pursuant to subdivision (a).

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

(e) The commission shall annually establish a surcharge rate for each class of customer for the service territory of each public utility gas corporation. A customer of an interstate gas pipeline, as defined in Section 891, shall pay the same surcharge rate as the customer would pay if the customer received service from the public utility gas corporation in whose service territory the customer resides. The commission shall, in determining the total retail natural gas transported within the service territory of a utility gas provider for the purpose of establishing the surcharge rate, shall rely on information reported in the California Gas Report to determine the volumes of retail gas transported within the service territory of the public utility gas corporation. The commission shall allocate the surcharge for gas used by noncore customers, including those customers who were not subject to the surcharge prior to January 1, 2000, on an equal cent per therm basis. The rates for core customers shall not be affected by the inclusion of those noncore customers who were not required to fund the programs described in subdivision (a) prior to January 1, 2000.

(f) The commission shall notify the State Board of Equalization of the surcharge rate for each class of customer served by an interstate pipeline in the service territory of a public utility gas corporation.

(g) The State Board of Equalization shall notify each interstate pipeline of the surcharge rate for each class of customer within the service territory of a public utility gas corporation.

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

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

891. (a) ‘‘Gas utility’’ means any public utility gas corporation or interstate pipeline as defined in this section.

(b) ‘‘Public utility gas corporation’’ means a public utility gas corporation as defined in Section 216.

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

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

892. The revenue from the surcharge imposed pursuant to this article and collected by gas utilities shall be paid to the State Board of Equalization in the form of remittances. The board shall transmit the payments to the Treasurer who shall deposit the payments in the Gas Consumption Surcharge Fund, which is hereby created in the State Treasury.

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

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

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

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

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

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

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

896. ‘‘Consumption’’ means the use or employment of natural gas. Consumption does not include the use or employment of natural gas to generate power for sale, the sale or purchase of natural gas for resale to end users, the sale or use of gas for enhanced oil recovery, or natural gas utilized in cogeneration technology projects to produce electricity.

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

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

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

900. The commission shall create an advisory board to make recommendations regarding the most efficient and cost-effective way to provide programs pursuant to Sections 739.1, 739.2, and 2790 in a consistent manner statewide by utility provider service territory. The advisory board shall be comprised of representatives from utility gas providers, nonutility gas providers, the Office of Ratepayer Advocates, the Energy Division within the commission, consumer groups, community-based organizations providing programs, and other interested parties. On or before July 1, 2000, the advisory group shall prepare and submit to the commission a report. The commission may accept, reject, or modify the recommendations. On or before July 1, 2001, the commission shall implement efficient and cost-effective programs pursuant to Sections 739.1, 739.2, and 2790. The commission may conduct compliance audits to ensure compliance with any commission order or resolution relating to the implementation of programs pursuant to Sections 739.1, 739.2, and 2790, and may conduct financial audits.

901. (a) The Legislature finds and declares ~~that recent changes in the natural gas industry have provided natural gas customers with the opportunity to take some or all of their natural gas services from natural gas providers regulated by the Federal Regulatory Energy Commission. Despite these changes in the industry, natural gas corporations regulated by the Public Utilities Commission continue to have an obligation to serve customers who partially or fully bypass their distribution system.~~

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

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

~~(d) Notwithstanding subdivision (c), the commission shall not approve any rate application that relieves the gas corporation of the obligation to serve wholesale customers where the bypass gas supply is natural gas produced and consumed within the service territory of the wholesale customer.~~ *all of the following:*

(a) The Federal Energy Regulatory Commission certifies the construction of interstate natural gas pipelines that provide an alternative for noncore natural gas customers in this state.

(b) The introduction of federally regulated pipelines for the transport of natural gas provides reasonable alternatives for the transport of natural gas, and is an indication that a competitive marketplace is emerging for the transport of natural gas.

(c) It is the intent of the Legislature that, to eliminate the uneconomic environment and establish a competitive market, public utility gas corporations should be allowed to provide service to customers who bypass a utility system at competitive market-based rates.

902. (a) The commission shall repeal the existing residual load service tariff adopted by the commission, known as the RLS tariff, and replace it with a tariff based on the calculation described in subdivision (b).

(b) For customers who bypass a utility system, the tariff rate shall include a monthly demand charge, applied during the month of utility system usage, using a calculation based 50 percent on the customer's monthly peak usage and 50 percent on the customer's usage on the public utility gas corporation's annual system peak day.

(c) The tariff described in subdivision (a) shall apply until the commission determines that workable competition exists. If the commission determines that workable competition exists, the commission shall allow a public utility gas corporation to provide service at

competitive market-based rates. As used in this section, "workable competition" means ________.

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

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