

AMENDED IN SENATE AUGUST 17, 1999

AMENDED IN SENATE JULY 8, 1999

AMENDED IN ASSEMBLY MAY 27, 1999

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 establish a surcharge on all natural gas consumed in this state to fund certain low-income assistance programs ~~and~~ cost-effective energy efficiency and conservation activities, *and public interest research and development*, as prescribed. The bill would require a public utility gas corporation, as described, to collect the surcharge from natural gas consumers, as specified. *The bill would affect consumers of natural gas that has been transported by an alternate pipeline, as prescribed.* 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 modify a specified existing tariff adopted by the commission based on a prescribed calculation. The bill would require the commission, if it makes a specified determination, to allow a gas corporation to provide service at competitive market-based rates. 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, ~~and statements of legislative intent~~, 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: $\frac{2}{3}$. 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, low-income assistance,
4 and weatherization programs, upon regulated gas
5 utilities that have public policy goals not directly related
6 to the provision of gas service. The costs borne by gas
7 utilities to provide these programs have historically been

1 recovered through gas rates established by the Public
2 Utilities Commission.

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

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

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

22
23 Article 10. Natural Gas Surcharge
24

25 ~~890. (a) No later than January 1, 2000, the~~

26 ~~890. (a) On and after January 1, 2000, there shall be~~
27 ~~imposed a surcharge on all natural gas consumed in this~~
28 ~~state. The commission shall establish a surcharge, as~~
29 ~~provided in this article, on all natural gas consumed in this~~
30 ~~state to fund low-income assistance programs required by~~
31 ~~Sections 739.1, 739.2, and 2790 and cost-effective energy~~
32 ~~efficiency and conservation activities and public interest~~
33 ~~research and development authorized by Section 740 and~~
34 ~~not adequately provided by the competitive and~~
35 ~~regulated markets. Upon implementation of this article,~~
36 ~~funding for those programs shall be removed from the~~
37 ~~rates of gas utilities.~~

38 (b) (1) Except as specified in Section 898, a public
39 utility gas corporation, as defined in subdivision (b) of
40 Section 891, shall collect the surcharge imposed pursuant

1 to subdivision (a) from any person consuming natural gas
2 in this state who receives gas service from the public
3 utility gas corporation.

4 (2) *A public utility gas corporation is relieved from*
5 *liability to collect the surcharge insofar as the base upon*
6 *which the surcharge is imposed is represented by*
7 *accounts which have been found to be worthless and*
8 *charged off in accordance with generally accepted*
9 *accounting principles. If the public utility gas corporation*
10 *has previously paid the amount of the surcharge it may,*
11 *under regulations prescribed by the board, take as a*
12 *deduction on its return the amount found to be worthless*
13 *and charged off. If any accounts are thereafter collected*
14 *in whole or in part, the surcharge so collected shall be*
15 *paid with the first return filed after that collection. The*
16 *commission may by regulation promulgate such other*
17 *rules with respect to uncollected or worthless accounts as*
18 *it shall deem necessary to the fair and efficient*
19 *administration of this part.*

20 (c) Except as specified in Section 898, all persons
21 consuming natural gas in this state that has been
22 transported by an interstate pipeline, as defined in
23 subdivision (c) of Section 891, ~~or alternate pipeline as~~
24 ~~defined in subdivision (d) of Section 891~~ shall be liable for
25 the surcharge imposed pursuant to subdivision (a).

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

31 (e) The commission shall annually establish a
32 surcharge rate for each class of customer for the service
33 territory of each public utility gas corporation. A
34 customer of an interstate gas pipeline ~~or alternate~~
35 ~~pipeline~~, as defined in Section 891, shall pay the same
36 surcharge rate as the customer would pay if the customer
37 received service from the public utility gas corporation in
38 whose service territory the customer resides. The
39 commission shall determine the total volume of retail
40 natural gas transported within the service territory of a

1 utility gas provider, that is not subject to exemption
2 pursuant to Section 896, for the purpose of establishing
3 the surcharge rate.

4 (f) The commission shall allocate the surcharge for gas
5 used by all customers, including those customers who
6 were not subject to the surcharge prior to January 1, 2000,
7 based on the following formula:

8 (1) The commission shall allocate all costs associated
9 with funding the public purpose programs by core and
10 noncore customer classes using the cost allocation
11 principles and the program budget in place December
12 31, 1998. The rates for core customers shall not be affected
13 by the inclusion of those noncore customers who were not
14 required to fund the programs described in subdivision
15 (a) prior to January 1, 2000.

16 (2) The commission shall allocate any increase in the
17 cost to fund the California Alternative Rates for Energy
18 (CARE) program, described in Section 739.1, above the
19 December 31, 1998, level, by allocating 85 percent of the
20 increase in program cost to the core customer class and
21 15 percent of the increase in program cost to the noncore
22 customer class.

23 (3) The commission shall allocate any reduction in the
24 cost to fund the California Alternative Rates for Energy
25 (CARE) program, described in Section 739.1, down to the
26 December 31, 1998, program funding level by allocating
27 85 percent of the reduction to the core customer class and
28 15 percent of the reduction to the noncore customer class.
29 Any reductions in the cost to fund the California
30 Alternative Rates for Energy (CARE) program,
31 described in Section 739.1, below the December 31, 1998,
32 program funding level shall be allocated based on the cost
33 allocation principles in place for each customer class on
34 December 31, 1998.

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

39 (h) The State Board of Equalization shall notify each
40 person who consumes natural gas delivered by an

1 interstate ~~or alternate~~ pipeline of the surcharge rate for
2 each class of customer within the service territory of a
3 public utility gas corporation.

4 ~~(h)–~~

5 (i) The surcharge imposed pursuant to subdivision (a)
6 shall be in addition to any other charges for natural gas
7 sold or transported for consumption in this state.
8 Effective on July 1, 2001, the surcharge imposed pursuant
9 to this article shall be identified as a separate line item the
10 bill of a customer of a public utility gas corporation.

11 ~~(i)–~~

12 (j) Notwithstanding subdivision (a), public utility gas
13 corporations shall continue to collect in rates those costs
14 of programs described in subdivision (a) of Section 890
15 that are uncollected prior to the operative date of this
16 article.

17 891. (a) “Gas utility” means any public utility gas
18 corporation or interstate pipeline as defined in this
19 section.

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

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

26 ~~(d) For purposes of this article, “alternate pipeline”~~
27 ~~means any entity that owns or operates a natural gas~~
28 ~~pipeline delivering natural gas to consumers in the state~~
29 ~~and is not regulated by the Federal Energy Regulatory~~
30 ~~Commission or the commission.~~

31 ~~(e)–~~

32 (d) Each gas utility shall notify the State Board of
33 Equalization of its status under this section. Each person
34 who consumes natural gas delivered by an interstate
35 pipeline shall annually register with the State Board of
36 Equalization. The State Board of Equalization may
37 require any documentation that it determines to be
38 necessary to implement this article.

39 892. The revenue from the surcharge imposed
40 pursuant to this article and collected by a public utility gas

1 corporation or ~~alternate pipeline~~ shall be paid to the State
2 Board of Equalization in the form of remittances. Persons
3 consuming natural gas delivered by an interstate pipeline
4 shall pay the surcharge to the State Board of Equalization
5 in the form of remittances. The board shall transmit the
6 payments to the Treasurer who shall deposit the
7 payments in the Gas Consumption Surcharge Fund,
8 which is hereby created in the State Treasury.

9 *892.1. The surcharges imposed by this part and the*
10 *amounts thereof required to be collected by public utility*
11 *gas corporations are due quarterly on or before the last*
12 *day of the month next succeeding each calendar quarter.*

13 *892.2. On or before the last day of the month following*
14 *each calendar quarter, a return for the preceding*
15 *quarterly period shall be filed with the State Board of*
16 *Equalization in such form as the board may prescribe. A*
17 *return shall be filed by every public utility gas*
18 *corporation, and by every person consuming, as defined*
19 *in this article, natural gas purchased from a provider*
20 *other than the public utility gas corporation. The return*
21 *shall be signed by the person required to file the return*
22 *by his or her duly authorized agent.*

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

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

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

34 (a) To the commission or an entity designated by the
35 commission to fund programs ~~pursuant to Sections 739.1,~~
36 ~~739.2, and 2790~~ described in subdivision (a) of Section 890.

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

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

1 896. “Consumption” means the use or employment of
2 natural gas. Consumption does not include the use or
3 employment of natural gas to generate power for sale, the
4 sale or purchase of natural gas for resale to end users, the
5 sale or use of gas for enhanced oil recovery, or natural gas
6 utilized in cogeneration technology projects to produce
7 electricity. *Consumption does not include the*
8 *consumption of natural gas which this state is prohibited*
9 *from taxing under the United States Constitution or the*
10 *California Constitution.*

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

15 898. Notwithstanding Section 890, a municipality,
16 district, or public agency that offers in published tariffs
17 home weatherization services, rate assistance for
18 low-income customers, or programs similar to those
19 described in subdivision (a) of Section 890, shall not be
20 required to collect a surcharge pursuant to this article
21 from customers within its service territory. A
22 municipality, district, or public agency shall be required
23 to collect a surcharge pursuant to this article from
24 customers served by the municipality, district, or public
25 agency outside of its service territory unless the
26 commission determines that the entity offers those
27 customers services similar to those offered by gas utilities
28 as described in subdivision (a) of Section 890.

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

32 900. The commission shall determine the most
33 efficient and cost-effective way to provide programs
34 pursuant to Sections 739.1, 739.2, and 2790 in a consistent
35 manner statewide by utility provider service territory. In
36 determining the most cost-effective way to provide
37 service that benefits persons eligible for low-income
38 programs, the commission shall consider factors,
39 including, but not limited to, outreach efforts to reach the
40 targeted population and the types of discounts and

1 services that should be provided by each utility. On or
2 before July 1, 2001, the commission shall develop and
3 implement efficient and cost-effective programs
4 pursuant to Sections 739.1, 739.2, and 2790. The
5 commission may conduct compliance audits to ensure
6 compliance with any commission order or resolution
7 relating to the implementation of programs pursuant to
8 Sections 739.1, 739.2, and 2790, and may conduct financial
9 audits.

10 901. ~~(a)~~—The Legislature finds and declares all of the
11 following:

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

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

21 (c) It is the intent of the Legislature that, to eliminate
22 the uneconomic environment and establish a
23 competitive market, the commission shall authorize a
24 public utility gas corporations to provide service to
25 customers who bypass a utility system at competitive
26 market-based rates *pursuant to the provisions of Section*
27 *902.*

28 902. (a) (1) The commission shall modify the rates
29 specified in the existing residual load service tariff
30 adopted by the commission in Decisions Nos. 95-07-046
31 and 97-04-082. The modifications to the tariff shall be
32 based on the calculation described in subdivision (c) and
33 shall apply to a customer who concurrently uses the
34 public utility gas corporation's intrastate pipeline system
35 for peaking service and also takes service from an
36 ~~interstate pipeline not subject to the jurisdiction of the~~
37 ~~commission~~ *alternate gas transportation service*
38 *provider.*

39 (2) *Nothing in this article is intended to limit the*
40 *flexibility of the commission to modify the applicability or*

1 *special conditions provisions of the residual load service*
2 *tariff adopted in Decisions Nos. 95-07-046 and 97-04-082.*

3 (b) For purposes of this section, the following
4 definitions apply:

5 (1) “Firm service for stated volumes” means service
6 that is designed for relatively constant but reduced usage
7 on the utility gas corporation’s pipeline system. On any
8 day, the customer may schedule up to a stated maximum
9 daily quantity.

10 (2) “Contingency service” means service that applies
11 to unanticipated and unscheduled usage of the public
12 utility gas corporation’s pipeline, for example, due to
13 unanticipated short-term reductions in the capacity of
14 the interstate pipeline as a result, for example, of
15 mechanical breakdowns.

16 (3) “Peak period service” means service that applies
17 to anticipated and scheduled usage of the utility gas
18 corporation’s pipeline, for example, at times of scheduled
19 maintenance on the alternate pipeline or of anticipated
20 peaks in the partial requirements customer’s usage.

21 (4) “Peaking service” means intrastate transportation
22 for the services described in paragraphs (1), (2), and (3)
23 above, and shall be differentiated from customers taking
24 all their requirements from a public utility gas
25 corporation.

26 (5) “Concurrent” means taking service from a utility
27 gas corporation and an ~~interstate or alternate pipeline not~~
28 ~~subject to the jurisdiction of the commission~~ gas
29 ~~transportation service provider~~ at any time during the
30 most recent 12-month period, not necessarily limited to
31 overlapping scheduling of deliveries. This definition of
32 concurrent shall be used solely for the purpose of
33 determining which customer of a gas corporation is
34 served as a full requirements customer and which
35 customer is served under the peaking service.

36 (c) For all service volumes, the customer shall pay a
37 volumetric rate and a monthly demand charge.

38 (1) The monthly demand charge shall be billed only
39 during the months of use. The demand charge rate shall
40 be calculated using the customer, transmission,

1 distribution, and load balancing storage costs allocated to
2 the particular customer's customer class, or subclass, if the
3 class rates are segmented by size or pressure level in
4 noncore longrun marginal cost rates. The demand charge
5 volume shall be based on the weighted average of the
6 following: (A) 50 percent on the greater of (i) the
7 customer's peak day usage in that billing month, or (ii)
8 the customer's maximum daily quantity, for customers
9 that contract for a maximum daily quantity; and (B) 50
10 percent on the customer's usage on the utility gas
11 ~~corporations~~ *corporations'* most recent system peak day.
12 ~~The 50/50 allocation shall remain in place as long as the~~
13 ~~public utility gas corporations' commission approved~~
14 ~~rates are based on longrun marginal costs. If the~~
15 ~~commission adopts a costing methodology that is not~~
16 ~~based on longrun marginal costs, the commission shall~~
17 ~~establish a residual load service tariff that is consistent~~
18 ~~with the cost and rate design principles applied to full~~
19 ~~requirements customers. This tariff shall remain in~~
20 ~~existence until the commission determines that there is~~
21 ~~workable competition pursuant to a formal proceeding.~~
22 *This 50/50 allocation shall remain in place as long as the*
23 *public utility gas corporations' commission approves the*
24 *utilization of long run marginal cost based volumetric*
25 *rates for the utility. However, if the commission moves to*
26 *another pricing structure, the commission shall establish*
27 *a residual load service tariff rate under the same*
28 *methodology as the customer's interstate pipeline or*
29 *alternate pipeline competitive alternative, while*
30 *remaining consistent with the restructuring principles*
31 *applied to full requirements customers. This tariff shall*
32 *remain in existence until the commission determines that*
33 *there is workable competition pursuant to a formal*
34 *proceeding. As part of this proceeding, the commission*
35 *shall request an advisory opinion from the Attorney*
36 *General about the existence of competitive options*
37 *available to the customer bypassing the public utility gas*
38 *corporation.*
39 (2) The volumetric charge shall be calculated as the
40 difference between the otherwise applicable tariffed

1 volumetric rate and the demand charge component
2 expressed on a volumetric basis for class or subclass. The
3 volumetric charge shall be collected on metered
4 throughput to the public utility gas corporation's meter
5 at the customer's facility.

6 (3) Peaking service usage up to the maximum daily
7 quantity shall be treated as firm noncore service. All
8 peaking service volumes in excess of the maximum daily
9 quantity shall be treated as interruptible service. Peaking
10 service shall be treated as any other comparable firm or
11 interruptible service by the public utility gas corporation.

12 (d) It is not the intent of the Legislature, in enacting
13 this statute, for the shareholders of the gas corporation or
14 other customers to subsidize any investment needed in
15 the gas corporation's facilities to serve customers taking
16 peaking service.

17 (e) If a customer who is no longer taking service from
18 an ~~interstate pipeline~~ *alternate gas transportation service*
19 *provider* chooses to resume full service from a utility gas
20 corporations under the standard tariff rates, the customer
21 cannot take gas from the bypass line. This customer can
22 be prevented from taking gas by requiring the locking of
23 the block valve in the fully closed position or the removal
24 of the flange section at the point of connection with the
25 bypass pipeline.

26 (f) If the commission restructures the gas
27 corporation's rates to differentiate pricing between firm
28 and interruptible service, the commission is instructed to
29 also consider the proper pricing for different levels of
30 service for peaking service. Nothing in this bill is intended
31 to limit the commission's flexibility in restructuring
32 jurisdictional intrastate gas transportation, including the
33 unbundling of transportation service, pricing, or rate
34 design.

35 (g) *This section shall apply to gas transportation*
36 *service provided to any noncore customer who bypasses*
37 *a public utility gas corporation's service, in whole or in*
38 *part. For purposes of this section, bypass is defined as any*
39 *situation where a customer of a public utility gas*
40 *corporation becomes connected to, and receives services*

1 *from, an alternate gas transportation service provider on*
2 *or after July 1, 1995.*

3 ~~(g)~~

4 (h) This section shall be fully implemented by June 1,
5 2000.

6 903. The Legislature finds and declares that recent
7 changes in the natural gas industry have provided natural
8 gas customers with the opportunity to take some or all of
9 their natural gas services from natural gas providers
10 regulated by the Federal Energy Regulatory
11 Commission. At the same time, natural gas corporations
12 regulated by the commission continue to have an
13 obligation to serve customers who partially or fully bypass
14 their distribution system.

15 904. The commission shall not approve any rate
16 application that relieves the gas corporation of the
17 obligation to serve wholesale customers where the bypass
18 gas supply is natural gas produced and consumed within
19 the service territory of the wholesale customer.

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