AMENDED IN SENATE JUNE 6, 2000

AMENDED IN SENATE AUGUST 17, 1999

AMENDED IN SENATE JULY 8, 1999

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AMENDED IN ASSEMBLY APRIL 26, 1999

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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, 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, relating to the surcharge ~~and the tariff~~.

The bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $^2/_3$ of the membership of each house of the Legislature.

(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, 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) On and after January 1, 2000, there shall be imposed a surcharge on all natural gas consumed in this state. The commission shall establish a surcharge to fund low-income assistance programs required by Sections 739.1, 739.2, and 2790 and cost-effective energy efficiency and conservation activities and public interest research and development authorized by Section 740 and 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) (1) Except as specified in Section 898, a public utility gas corporation, as defined in subdivision (b) of 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 public utility gas corporation.

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

(c) Except as specified in Section 898, all persons consuming natural gas in this state that has been transported by an interstate pipeline, as defined in subdivision (c) of Section 891, 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 determine the total volume of retail natural gas transported within the service territory of a utility gas provider, that is not subject to exemption pursuant to Section 896, for the purpose of establishing the surcharge rate.

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

(1) The commission shall allocate all costs associated with funding the public purpose programs by core and noncore customer classes using the cost allocation principles and the program budget in place December 31, 1998. 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.

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

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

(g) 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.

(h) The State Board of Equalization shall notify each person who consumes natural gas delivered by an interstate pipeline of the surcharge rate for each class of customer within the service territory of a public utility gas corporation.

(i) 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. Effective on July 1, 2001, the surcharge imposed pursuant to this article shall be identified as a separate line item *on* the bill of a customer of a public utility gas corporation.

(j) Notwithstanding subdivision (a), public utility gas corporations shall continue to collect in rates those costs of programs described in subdivision (a) of Section 890 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. Each person who consumes natural gas delivered by an interstate pipeline shall annually register with the State Board of Equalization. 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 a public utility gas corporation shall be paid to the State Board of Equalization in the form of remittances. Persons

consuming natural gas delivered by an interstate pipeline shall pay the surcharge 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.

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

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

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 described in subdivision (a) of Section 890.

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

(c) 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. Consumption does not include the consumption of natural gas which this state is prohibited from taxing under the United States Constitution or the California Constitution.

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 offers in published tariffs home weatherization services, rate assistance for low-income customers, or programs similar to those described in subdivision (a) of Section 890, 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~~ *898* from collecting a surcharge.

900. The commission shall determine 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. In determining the most cost-effective way to provide service that benefits persons eligible for low-income programs, the commission shall consider factors, including, but not limited to, outreach efforts to reach the targeted population and the types of discounts and services that should be provided by each utility. On or before July 1, 2001, the commission shall develop and

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. The Legislature finds and declares 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, the commission shall authorize public utility gas corporations to provide service to customers who bypass a utility system at competitive market-based rates pursuant to the provisions of Section 902.~~

~~902. (a) (1) The commission shall modify the rates specified in the existing residual load service tariff adopted by the commission in Decisions Nos. 95-07-046 and 97-04-082. The modifications to the tariff shall be based on the calculation described in subdivision (c) and shall apply to a customer who concurrently uses the public utility gas corporation's intrastate pipeline system for peaking service and also takes service from an alternate gas transportation service provider.~~

~~(2) Nothing in this article is intended to limit the flexibility of the commission to modify the applicability or special conditions provisions of the residual load service tariff adopted in Decisions Nos. 95-07-046 and 97-04-082.~~

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

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

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

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

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

~~(5) “Concurrent” means taking service from a utility gas corporation and an alternate gas transportation service provider at any time during the most recent 12-month period, not necessarily limited to overlapping scheduling of deliveries. This definition of concurrent shall be used solely for the purpose of determining which customer of a gas corporation is served as a full requirements customer and which customer is served under the peaking service.~~

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

~~(1) The monthly demand charge shall be billed only during the months of use. The demand charge rate shall be calculated using the customer, transmission, distribution, and load balancing storage costs allocated to the particular customer’s customer class, or subclass, if the class rates are segmented by size or pressure level in noncore longrun marginal cost rates. The demand charge volume shall be based on the weighted average of the~~

~~following: (A) 50 percent on the greater of (i) the customer's peak day usage in that billing month, or (ii) the customer's maximum daily quantity, for customers that contract for a maximum daily quantity; and (B) 50 percent on the customer's usage on the utility gas corporations' most recent system peak day. This 50/50 allocation shall remain in place as long as the public utility gas corporations' commission approves the utilization of long run marginal cost based volumetric rates for the utility. However, if the commission moves to another pricing structure, the commission shall establish a residual load service tariff rate under the same methodology as the customer's interstate pipeline or alternate pipeline competitive alternative, while remaining consistent with the restructuring principles applied to full requirements customers. This tariff shall remain in existence until the commission determines that there is workable competition pursuant to a formal proceeding. As part of this proceeding, the commission shall request an advisory opinion from the Attorney General about the existence of competitive options available to the customer bypassing the public utility gas corporation.~~

~~(2) The volumetric charge shall be calculated as the difference between the otherwise applicable tariffed volumetric rate and the demand charge component expressed on a volumetric basis for class or subclass. The volumetric charge shall be collected on metered throughput to the public utility gas corporation's meter at the customer's facility.~~

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

~~(d) It is not the intent of the Legislature, in enacting this statute, for the shareholders of the gas corporation or other customers to subsidize any investment needed in~~

~~the gas corporation's facilities to serve customers taking peaking service.~~

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

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

~~(g) This section shall apply to gas transportation service provided to any noncore customer who bypasses a public utility gas corporation's service, in whole or in part. For purposes of this section, bypass is defined as any situation where a customer of a public utility gas corporation becomes connected to, and receives services from, an alternate gas transportation service provider on or after July 1, 1995.~~

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

~~903. 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 Energy Regulatory Commission. At the same time, natural gas corporations regulated by the commission continue to have an obligation to serve customers who partially or fully bypass their distribution system.~~

~~904. 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.~~

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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