

AMENDED IN SENATE JUNE 6, 2000
AMENDED IN SENATE APRIL 13, 2000
AMENDED IN ASSEMBLY MAY 12, 1999
AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1082

**Introduced by Assembly ~~Member Calderon~~ Members
*Calderon and Maddox***

February 25, 1999

An act to amend Section 829 of the Public Utilities Code,
relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1082, as amended, Calderon. Public utilities: stocks and security transactions.

The Public Utilities Act generally exempts from certain provisions of the act governing stocks and security transactions any person or corporation that transacts no business subject to regulation under the act, except performing services or delivering commodities for or to public utilities or municipal or other public corporations primarily for resale or use in serving the public or any portion thereof. Notwithstanding that general exemption, those provisions of the act governing stocks and security transactions apply to any public utility if the Public Utilities Commission finds that the application of those provisions is

required by the public interest. The act authorizes the commission to exempt any public utility or class of public utility from those stock and security transaction provisions if it finds that their application is not necessary in the public interest.

This bill, *except as specified*, would ~~remove the public interest exception from the general exemption described above. The bill would~~ exempt from those stock and security transaction provisions a telephone corporation that is regulated under ~~an incentive-based pricing mechanism a price-cap regulatory structure, as defined,~~ unless the corporation secures the financing by pledging a plant or assets. The bill would make *a related statement of legislative findings and declarations intent.*

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. The Legislature finds and declares all of~~
2 ~~the following:~~

3 ~~(a) The requirement for commission approval of a~~
4 ~~utility's financing, as specified in Article 5 (commencing~~
5 ~~with Section 816) of Chapter 4 of Part 1 of Division 1 of~~
6 ~~the Public Utilities Code, may limit the ability of a utility~~
7 ~~whose rates are price-capped to obtain favorable~~
8 ~~financing. Such approval could cause a price-cap~~
9 ~~regulated utility to miss favorable financing~~
10 ~~opportunities, adversely affecting its ability to compete in~~
11 ~~California markets with competitors having no similar~~
12 ~~regulatory or statutory requirements. This is costly to the~~
13 ~~utility, the regulator, the ratepayer, and the taxpayer.~~

14 ~~(b) It is the intent of the Legislature that Article 5~~
15 ~~(commencing with Section 816) of Chapter 4 of Part 1 of~~
16 ~~Division 1 of the Public Utilities Code, not hinder the~~

17 *SECTION 1. It is the intent of the Legislature that the*
18 *amendments to Section 829 of the Public Utilities Code*
19 *made by this act not hinder the commission's existing*
20 *authority to disallow imprudent expenses of the utilities*
21 *under its jurisdiction. expenses or capital expenditures of*

1 *the utilities under its jurisdiction, or the commission's*
2 *authority to impute a capital structure or cost of capital*
3 *for utilities under its jurisdiction.*

4 SEC. 2. Section 829 of the Public Utilities Code is
5 amended to read:

6 829. (a) This article does not apply to a person or
7 corporation that transacts no business subject to
8 regulation under this part, except performing services or
9 delivering commodities for or to public utilities or
10 municipal or other public corporations primarily for
11 resale or use in serving the public or any portion thereof
12 *but shall, nevertheless, apply to any public utility if the*
13 *commission finds, in a proceeding to which the public*
14 *utility is or may become a party, that the application of*
15 *this article is required by the public interest.*

16 (b) (1) The requirements in this article for
17 commission approval of utility financing ~~for utility~~
18 ~~purposes~~ do not apply to a telephone corporation that is
19 ~~regulated under an incentive-based pricing mechanism~~
20 ~~and that~~ *regulated under a price-cap regulatory*
21 *structure if the corporation does not pledge a plant or*
22 *assets to secure the financing. The term "price-cap*
23 *regulatory structure," as used in this paragraph, is a*
24 *system under which rates are not set by means of a rate*
25 *base or rate-of-return form of regulation, but, instead, are*
26 *limited by a maximum amount that may be charged for*
27 *a specific service, or are not limited.*

28 (2) Notwithstanding paragraph (1), these utilities
29 ~~shall remain subject to Sections 817, 824, and 830.~~ *shall*
30 *remain subject to Section 817, that provision of Section*
31 *820 regarding contracts, Section 824, and those provisions*
32 *of Section 826 and subdivision (a) of Section 827 that*
33 *impose penalties for disobeying statutory and*
34 *constitutional requirements.*

35 (3) Notwithstanding paragraph (1), the commission
36 may reimpose any or all of the requirements of this article
37 for commission approval of utility financing *if the*
38 *commission finds, in a proceeding to which the public*
39 *utility is or may become a party, that the application of*

1 *any or all of those requirements is required by the public*
2 *interest.*

3 (c) The commission may from time to time by order
4 or rule, and subject to those terms and conditions that
5 may be prescribed in the order or rule, exempt any public
6 utility or class of public utility from this article, *or any*
7 *portion of this article*, if it finds that the application of this
8 article to ~~that~~ a public utility or class of public utility is
9 not necessary in the public interest.

