

ASSEMBLY BILL

No. 1421

Introduced by Assembly Member Wright

February 26, 1999

An act to amend Sections 330 and 331 of, to add Sections 328.1 and 328.2 to, and to repeal and add Sections 328 and 365.5 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1421, as introduced, R. Wright. Gas and electric service.

(1) Existing law permits the Public Utility Commission to investigate the restructuring of natural gas services, as specified, but prohibits the commission, prior to January 1, 2000, from enacting any gas industry restructuring decisions and from enforcing any natural gas restructuring decisions for core customers as considered in Rulemaking 98-01-011 enacted after July 1, 1998, but prior to August 25, 1998.

This bill would repeal that provision, and, instead, would require the commission to require each gas corporation to provide bundled basic gas service, as defined, to all core customers in its service territory unless the customer makes a positive declaration to have natural gas purchased and supplied by another entity. The bill would require the commission to allow only a gas corporation to provide revenue cycle services, as defined, in its service territory, and would require the commission to require the distribution rate to continue to include after-meter services, as defined. The bill would require the commission to set the natural gas

commodity portion of the bundled rate equal to the weighted average cost of gas. The bill would require the commission to authorize gas corporations to offer optional competitive rate schedules and tariffs. The bill would make related legislative findings and declarations.

(2) Existing law relating to electrical restructuring states that nothing in those provisions prevents the commission from exercising its authority to investigate a process for the certification and regulation of the rates, charges, terms, and conditions of default service, and if the commission determines that a process for the certification and regulation of default service is in the public interest, existing law requires the commission to submit its findings and recommendations to the Legislature for approval.

This bill would repeal that provision, and, instead, require the commission to require each electrical corporation to provide bundled basic electric service, as defined, to all customers in its service territory unless the customer makes a positive declaration in accordance with specified existing law to receive electric power through a direct transaction with another electric service provider. The bill would authorize an electric power supplier, if a customer makes a positive declaration to receive electric power through a direct transaction with an electric power supplier, to also provide metering, billing, and collection service for that customer, but if a positive declaration is not made, would require metering, billing, and collection service to be provided by the existing electrical corporation. The bill would require the commission to set the electric energy commodity portion of the bundled rate, as specified. The bill would require the commission to authorize each electrical corporation to offer all customers unbundled electric energy at time-of-use based rates, and to also authorize an electrical corporation to offer other optional competitive rates and services.

(3) Because a violation by a public utility of a requirement of the commission is a crime, this bill would impose a state-mandated local program by creating new crimes.

(4) 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: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 328 of the Public Utilities Code
2 is repealed.

3 ~~328. The commission may investigate issues~~
4 ~~associated with the further restructuring of natural gas~~
5 ~~services beyond decisions made prior to July 1, 1998. If the~~
6 ~~commission determines that further natural gas industry~~
7 ~~restructuring for core customers, as considered in~~
8 ~~Rulemaking 98-01-011, including, but not limited to,~~
9 ~~opening or changing competitive markets, establishing~~
10 ~~consumer protection standards, or unbundling costs,~~
11 ~~rates or services, is in the public interest, the commission~~
12 ~~shall submit its findings and recommendations to the~~
13 ~~Legislature. Prior to January 1, 2000, the commission shall~~
14 ~~not enact any such gas industry restructuring decisions.~~
15 ~~Any commission natural gas restructuring decisions for~~
16 ~~core customers, as considered in Rulemaking 98-01-011~~
17 ~~enacted prior to the effective date of this section, but after~~
18 ~~July 1, 1998, shall not be enforced.~~

19 SEC. 2. Section 328 is added to the Public Utilities
20 Code, to read:

21 328. The Legislature finds and declares both of the
22 following:

23 (a) In order to ensure that all core customers of a gas
24 corporation continue to receive safe basic gas service in
25 a competitive market, each existing gas corporation
26 should continue to provide this essential service.

27 (b) No customer should have to pay separate fees for
28 services that protect public or customer safety.

29 SEC. 3. Section 328.1 is added to the Public Utilities
30 Code, to read:

1 328.1. As used in this section, the following terms have
2 the following meanings:

3 (a) “Basic gas service” includes transmission, storage,
4 and distribution of natural gas, purchasing natural gas on
5 behalf of a customer, revenue cycle services, and
6 after-meter services.

7 (b) “Revenue cycle services” means metering
8 services, billing the customer, collection, and related
9 customer services.

10 (c) “After-meter services” includes, but is not limited
11 to, leak investigation, inspecting customer piping and
12 appliances, carbon monoxide investigation, pilot
13 relighting, and high bill investigation.

14 (d) “Metering services” includes, but is not limited to,
15 gas meter installation, maintenance testing, collecting
16 and processing consumption data, and all related services
17 associated with the meter.

18 SEC. 4. Section 328.2 is added to the Public Utilities
19 Code, to read:

20 328.2. (a) The commission shall require each gas
21 corporation to provide bundled basic gas service to all
22 core customers in its service territory unless the customer
23 makes a positive declaration to have natural gas
24 purchased and supplied by another entity. The
25 commission shall allow only a gas corporation to provide
26 revenue cycle services in its service territory. The
27 commission shall require the distribution rate to continue
28 to include after-meter services.

29 (b) For bundled basic gas service, the commission
30 shall set the natural gas commodity portion of the
31 bundled rate at an amount equal to the weighted average
32 cost of gas.

33 (c) The commission shall authorize gas corporations to
34 offer optional competitive rate schedules and tariffs.

35 SEC. 5. Section 330 of the Public Utilities Code is
36 amended to read:

37 330. In order to provide guidance in carrying out this
38 chapter, the Legislature finds and declares all of the
39 following:



1 (a) It is the intent of the Legislature that a cumulative
2 rate reduction of at least 20 percent be achieved not later
3 than April 1, 2002, for residential and small commercial
4 customers, from the rates in effect on June 10, 1996. In
5 determining that the April 1, 2002, rate reduction has
6 been met, the commission shall exclude the costs of the
7 competitively procured electricity and the costs
8 associated with the rate reduction bonds, as defined in
9 Section 840.

10 (b) The people, businesses, and institutions of
11 California spend nearly twenty-three billion dollars
12 (\$23,000,000,000) annually on electricity, so that
13 reductions in the price of electricity would significantly
14 benefit the economy of the state and its residents.

15 (c) The Public Utilities Commission has opened
16 rulemaking and investigation proceedings with regard to
17 restructuring California's electric power industry and
18 reforming utility regulation.

19 (d) The commission has found, after an extensive
20 public review process, that the interests of ratepayers and
21 the state as a whole will be best served by moving from
22 the regulatory framework existing on January 1, 1997, in
23 which retail electricity service is provided principally by
24 electrical corporations subject to an obligation to provide
25 ultimate consumers in exclusive service territories with
26 reliable electric service at regulated rates, to a framework
27 under which competition would be allowed in the supply
28 of electric power and customers would be allowed to have
29 the right to choose their supplier of electric power.

30 (e) Competition in the electric generation market will
31 encourage innovation, efficiency, and better service from
32 all market participants, and will permit the reduction of
33 costly regulatory oversight.

34 (f) The delivery of electricity over transmission and
35 distribution systems is currently regulated, and will
36 continue to be regulated to ensure system safety,
37 reliability, environmental protection, and fair access for
38 all market participants.

39 (g) Reliable electric service is of utmost importance to
40 the safety, health, and welfare of the state's citizenry and

1 economy. It is the intent of the Legislature that electric
2 industry restructuring should enhance the reliability of
3 the interconnected regional transmission systems, and
4 provide strong coordination and enforceable protocols
5 for all users of the power grid.

6 (h) It is important that sufficient supplies of electric
7 generation will be available to maintain the reliable
8 service to the citizens and businesses of the state.

9 (i) Reliable electric service depends on conscientious
10 inspection and maintenance of transmission and
11 distribution systems. To continue and enhance the
12 reliability of the delivery of electricity, the Independent
13 System Operator and the commission, respectively,
14 should set inspection, maintenance, repair, and
15 replacement standards.

16 (j) It is the intent of the Legislature that California
17 enter into a compact with western region states. That
18 compact should require the publicly and investor-owned
19 utilities located in those states, that sell energy to
20 California retail customers, to adhere to enforceable
21 standards and protocols to protect the reliability of the
22 interconnected regional transmission and distribution
23 systems.

24 (k) In order to achieve meaningful wholesale and
25 retail competition in the electric generation market, it is
26 essential to do all of the following:

27 (1) Separate monopoly utility transmission functions
28 from competitive generation functions, through
29 development of independent, third-party control of
30 transmission access and pricing.

31 (2) Permit all customers to choose from among
32 competing suppliers of electric power.

33 (3) Provide customers and suppliers with open,
34 nondiscriminatory, and comparable access to
35 transmission and distribution services.

36 (l) The commission has properly concluded that:

37 (1) This competition will best be introduced by the
38 creation of an Independent System Operator and an
39 independent Power Exchange.



1 (2) Generation of electricity should be open to
2 competition and utility generation should be transitioned
3 from regulated status to unregulated status through
4 means of commission-approved market valuation
5 mechanisms.

6 (3) There is a need to ensure that no participant in
7 these new market institutions has the ability to exercise
8 significant market power so that operation of the new
9 market institutions would be distorted.

10 (4) These new market institutions should commence
11 simultaneously with the phase-in of customer choice, and
12 the public will be best served if these institutions and the
13 nonbypassable transition cost recovery mechanism
14 referred to in subdivisions (s) to (w), inclusive, are in
15 place simultaneously and no later than January 1, 1998.

16 (m) It is the intention of the Legislature that
17 California's publicly owned electric utilities and
18 investor-owned electric utilities should commit control of
19 their transmission facilities to the Independent System
20 Operator. These utilities should jointly advocate to the
21 Federal Energy Regulatory Commission a pricing
22 methodology for the Independent System Operator that
23 results in an equitable return on capital investment in
24 transmission facilities for all Independent System
25 Operator participants.

26 (n) Opportunities to acquire electric power in the
27 competitive market must be available to California
28 consumers as soon as practicable, but no later than
29 January 1, 1998, so that all customers can share in the
30 benefits of competition.

31 (o) Under the existing regulatory framework,
32 California's electrical corporations were granted
33 franchise rights to provide electricity to consumers in
34 their service territories.

35 (p) Consistent with federal and state policies,
36 California electrical corporations invested in power
37 plants and entered into contractual obligations in order
38 to provide reliable electrical service on a
39 nondiscriminatory basis to all consumers within their
40 service territories who requested service.

1 (q) The cost of these investments and contractual
2 obligations are currently being recovered in electricity
3 rates charged by electrical corporations to their
4 consumers.

5 (r) Transmission and distribution of electric power
6 remain essential services imbued with the public interest
7 that are provided over facilities owned and maintained
8 by the state's electrical corporations.

9 (s) It is proper to allow electrical corporations an
10 opportunity to continue to recover, over a reasonable
11 transition period, those costs and categories of costs for
12 generation-related assets and obligations, including costs
13 associated with any subsequent renegotiation or buyout
14 of existing generation-related contracts, that the
15 commission, prior to December 20, 1995, had authorized
16 for collection in rates and that may not be recoverable in
17 market prices in a competitive generation market, and
18 appropriate additions incurred after December 20, 1995,
19 for capital additions to generating facilities existing as of
20 December 20, 1995, that the commission determines are
21 reasonable and should be recovered, provided that the
22 costs are necessary to maintain those facilities through
23 December 31, 2001. In determining the costs to be
24 recovered, it is appropriate to net the negative value of
25 above market assets against the positive value of below
26 market assets.

27 (t) The transition to a competitive generation market
28 should be orderly, protect electric system reliability,
29 provide the investors in these electrical corporations with
30 a fair opportunity to fully recover the costs associated
31 with commission approved generation-related assets and
32 obligations, and be completed as expeditiously as possible.

33 (u) The transition to expanded customer choice,
34 competitive markets, and performance based
35 ratemaking as described in Decision 95-12-063, as
36 modified by Decision 96-01-009, of the Public Utilities
37 Commission, can produce hardships for employees who
38 have dedicated their working lives to utility employment.
39 It is preferable that any necessary reductions in the utility
40 work force directly caused by electrical restructuring, be

1 accomplished through offers of voluntary severance,
2 retraining, early retirement, outplacement, and related
3 benefits. Whether work force reductions are voluntary or
4 involuntary, reasonable costs associated with these sorts
5 of benefits should be included in the competition
6 transition charge.

7 (v) Charges associated with the transition should be
8 collected over a specific period of time on a
9 nonbypassable basis and in a manner that does not result
10 in an increase in rates to customers of electrical
11 corporations. In order to insulate the policy of
12 nonbypassability against incursions, if exemptions from
13 the competition transition charge are granted, a fire wall
14 shall be created that segregates recovery of the cost of
15 exemptions as follows:

16 (1) The cost of the competition transition charge
17 exemptions granted to members of the combined class of
18 residential and small commercial customers shall be
19 recovered only from those customers.

20 (2) The cost of the competition transition charge
21 exemptions granted to members of the combined class of
22 customers other than residential and small commercial
23 customers shall be recovered only from those customers.
24 The commission shall retain existing cost allocation
25 authority provided that the fire wall and rate freeze
26 principles are not violated.

27 (w) It is the intent of the Legislature to require and
28 enable electrical corporations to monetize a portion of
29 the competition transition charge for residential and
30 small commercial consumers so that these customers will
31 receive rate reductions of no less than 10 percent for 1998
32 continuing through 2002. Electrical corporations shall, by
33 June 1, 1997, or earlier, secure the means to finance the
34 competition transition charge by applying concurrently
35 for financing orders from the Public Utilities Commission
36 and for rate reduction bonds from the California
37 Infrastructure and Economic Development Bank.

38 (x) California's public utility electrical corporations
39 provide substantial benefits to all Californians, including
40 employment and support of the state's economy.

1 Restructuring the electric services industry pursuant to
2 the act that added this chapter will continue these
3 benefits, and will also offer meaningful and immediate
4 rate reductions for residential and small commercial
5 customers, and facilitate competition in the supply of
6 electric power.

7 *(y) In order to ensure that all customers of an*
8 *electrical corporation continue to receive basic electric*
9 *service in a competitive market, each electrical*
10 *corporation should continue to provide this essential*
11 *service.*

12 SEC. 6. Section 331 of the Public Utilities Code is
13 amended to read:

14 331. The definitions set forth in this section shall
15 govern the construction of this chapter.

16 (a) “Aggregator” means any marketer, broker, public
17 agency, city, county, or special district, that combines the
18 loads of multiple end-use customers in facilitating the sale
19 and purchase of electric energy, transmission, and other
20 services on behalf of these customers.

21 (b) “Basic electric service” includes transmission and
22 distribution of electric power, purchasing electric power
23 on behalf of a customer, and revenue cycle services such
24 as metering customer usage, billing the customer, and
25 related customer services.

26 (c) “Broker” means an entity that arranges the sale
27 and purchase of electric energy, transmission, and other
28 services between buyers and sellers, but does not take
29 title to any of the power sold.

30 ~~(e)~~

31 (d) “Direct transaction” means a contract between
32 any one or more electric generators, marketers, or
33 brokers of electric power and one or more retail
34 customers providing for the purchase and sale of electric
35 power or any ancillary services.

36 ~~(d)~~

37 (e) “Fire wall” means the line of demarcation
38 separating residential and small commercial customers
39 from all other customers as described in subdivision (e)
40 of Section 367.



~~(e)~~

(f) “Marketer” means any entity that buys electric energy, transmission, and other services from traditional utilities and other suppliers, and then resells those services at wholesale or to an end-use customer.

~~(f)~~

(g) “Microcogeneration facility” means a cogeneration facility of less than one megawatt.

~~(g)~~

(h) “Restructuring trusts” means the two tax-exempt public benefit trusts established by Decision D. 96-08-038 of the Public Utilities Commission to provide for design and development of the hardware and software systems for the Power Exchange and the Independent System Operator, respectively, and that may undertake other activities, as needed, as ordered by the commission.

~~(h)~~

(i) “Small commercial customer” means a customer that has a maximum peak demand of less than 20 kilowatts.

SEC. 7. Section 365.5 of the Public Utilities Code is repealed.

~~365.5. Nothing in this chapter shall prevent the commission from exercising its authority to investigate a process for certification and regulation of the rates, charges, terms, and conditions of default service. If the commission determines that a process for certification and regulation of default service is in the public interest, the commission shall submit its findings and recommendations to the Legislature for approval.~~

SEC. 8. Section 365.5 is added to the Public Utilities Code, to read:

365.5. (a) The commission shall require each electrical corporation to provide bundled basic electric service to all customers in its service territory unless the customer makes a positive declaration in accordance with Section 366 to receive electric power through a direct transaction with another electric service provider. If a customer makes a positive declaration to receive electric power through a direct transaction with an electric

1 power supplier, the electric power supplier may also
2 provide metering, billing, and collection service for that
3 customer. If a positive declaration is not made, metering,
4 billing, and collection service shall be provided by the
5 existing electrical corporation.

6 (b) Commencing on the date on which the
7 commission-authorized costs for utility generation
8 related assets and obligations have been fully recovered
9 or March 31, 2002, whichever is earlier, the commission
10 shall set the electric energy commodity portion of the
11 bundled rate at an amount equal to the price of electric
12 energy purchased or settled through the Power
13 Exchange.

14 (c) The commission shall authorize each electrical
15 corporation to offer all customers unbundled electric
16 energy at time-of-use based rates, and shall also authorize
17 an electrical corporation to offer other optional
18 competitive rates and services.

19 SEC. 9. No reimbursement is required by this act
20 pursuant to Section 6 of Article XIII B of the California
21 Constitution because the only costs that may be incurred
22 by a local agency or school district will be incurred
23 because this act creates a new crime or infraction,
24 eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition
27 of a crime within the meaning of Section 6 of Article
28 XIII B of the California Constitution.

