

AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1421

Introduced by Assembly Member Wright

February 26, 1999

An act to amend ~~Sections 330 and~~ *Section* 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 amended, 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~~ *chooses or contracts* to have natural gas purchased and supplied by another entity. The bill would ~~require the commission to allow only~~ *specify that a public utility* gas corporation *shall continue* to ~~provide~~ *be the exclusive provider of* revenue cycle services, as defined, in its

service territory, *except as specified*, 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 authorize a gas corporation to purchase natural gas commodity from any source and* 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 *public utility* electrical corporation. The bill would require the commission to set the electric energy commodity portion of the bundled rate, as specified, *and to authorize an electrical corporation to purchase energy and associated services from specified sources*. 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 SEC. 2. Section 328 is added to the Public Utilities
4 Code, to read:

5 328. The Legislature finds and declares both of the
6 following:

7 (a) In order to ensure that all core customers of a gas
8 corporation continue to receive safe basic gas service in
9 a competitive market, each existing gas corporation
10 should continue to provide this essential service.

11 (b) No customer should have to pay separate fees for
12 *utilizing* services that protect public or customer safety.

13 SEC. 3. Section 328.1 is added to the Public Utilities
14 Code, to read:

15 328.1. As used in this section, the following terms have
16 the following meanings:

17 (a) “Basic gas service” includes transmission, storage
18 *for reliability of service*, and distribution of natural gas,
19 purchasing natural gas on behalf of a customer, revenue
20 cycle services, and after-meter services.

21 (b) “Revenue cycle services” means metering
22 services, billing the customer, collection, and related
23 customer services.

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

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

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

328.2. (a) The commission shall require each gas corporation to provide bundled basic gas service to all core customers in its service territory unless the customer ~~makes a positive declaration chooses or contracts~~ to have natural gas purchased and supplied by another entity. ~~The commission shall allow only a gas corporation to provide~~ *A public utility gas corporation shall continue to be the exclusive provider of revenue cycle services to all customers in its service territory, except that an entity purchasing and supplying natural gas under the commission’s core aggregation program may perform billing and collection services for its customers.* The commission shall require the distribution rate to continue to include after-meter services.

(b) For bundled basic gas service, the commission shall set the natural gas commodity portion of the bundled rate at an amount equal to the weighted average cost of gas. *So that customers will have the lowest rate for natural gas, the commission shall authorize the gas corporation to purchase natural gas commodity from any source. Any difference between the cost of purchases by the gas corporation and the cost of gas as measured by appropriate market indices shall be shared by the gas corporation and bundled service customers in a manner determined by the commission. All costs of procurement, other than the purchases of natural gas commodity, shall be included as part of the basic distribution rate paid by all distribution customers.*

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

1 ~~SEC. 5. Section 330 of the Public Utilities Code is~~
2 ~~amended to read:~~

3 ~~330. In order to provide guidance in carrying out this~~
4 ~~chapter, the Legislature finds and declares all of the~~
5 ~~following:~~

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

15 ~~(b) The people, businesses, and institutions of~~
16 ~~California spend nearly twenty-three billion dollars~~
17 ~~(\$23,000,000,000) annually on electricity, so that~~
18 ~~reductions in the price of electricity would significantly~~
19 ~~benefit the economy of the state and its residents.~~

20 ~~(c) The Public Utilities Commission has opened~~
21 ~~rulemaking and investigation proceedings with regard to~~
22 ~~restructuring California's electric power industry and~~
23 ~~reforming utility regulation.~~

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

35 ~~(e) Competition in the electric generation market will~~
36 ~~encourage innovation, efficiency, and better service from~~
37 ~~all market participants, and will permit the reduction of~~
38 ~~costly regulatory oversight.~~

39 ~~(f) The delivery of electricity over transmission and~~
40 ~~distribution systems is currently regulated, and will~~

1 ~~continue to be regulated to ensure system safety,~~
2 ~~reliability, environmental protection, and fair access for~~
3 ~~all market participants.~~

4 ~~(g) Reliable electric service is of utmost importance to~~
5 ~~the safety, health, and welfare of the state's citizenry and~~
6 ~~economy. It is the intent of the Legislature that electric~~
7 ~~industry restructuring should enhance the reliability of~~
8 ~~the interconnected regional transmission systems, and~~
9 ~~provide strong coordination and enforceable protocols~~
10 ~~for all users of the power grid.~~

11 ~~(h) It is important that sufficient supplies of electric~~
12 ~~generation will be available to maintain the reliable~~
13 ~~service to the citizens and businesses of the state.~~

14 ~~(i) Reliable electric service depends on conscientious~~
15 ~~inspection and maintenance of transmission and~~
16 ~~distribution systems. To continue and enhance the~~
17 ~~reliability of the delivery of electricity, the Independent~~
18 ~~System Operator and the commission, respectively,~~
19 ~~should set inspection, maintenance, repair, and~~
20 ~~replacement standards.~~

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

29 ~~(k) In order to achieve meaningful wholesale and~~
30 ~~retail competition in the electric generation market, it is~~
31 ~~essential to do all of the following:~~

32 ~~(1) Separate monopoly utility transmission functions~~
33 ~~from competitive generation functions, through~~
34 ~~development of independent, third-party control of~~
35 ~~transmission access and pricing.~~

36 ~~(2) Permit all customers to choose from among~~
37 ~~competing suppliers of electric power.~~

38 ~~(3) Provide customers and suppliers with open,~~
39 ~~nondiscriminatory, and comparable access to~~
40 ~~transmission and distribution services.~~

~~(f) The commission has properly concluded that:~~

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

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

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

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

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

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

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

~~(p) Consistent with federal and state policies, California electrical corporations invested in power~~

1 ~~plants and entered into contractual obligations in order~~
2 ~~to provide reliable electrical service on a~~
3 ~~nondiscriminatory basis to all consumers within their~~
4 ~~service territories who requested service.~~

5 ~~(q) The cost of these investments and contractual~~
6 ~~obligations are currently being recovered in electricity~~
7 ~~rates charged by electrical corporations to their~~
8 ~~consumers.~~

9 ~~(r) Transmission and distribution of electric power~~
10 ~~remain essential services imbued with the public interest~~
11 ~~that are provided over facilities owned and maintained~~
12 ~~by the state's electrical corporations.~~

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

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

37 ~~(u) The transition to expanded customer choice,~~
38 ~~competitive markets, and performance based~~
39 ~~ratemaking as described in Decision 95-12-063, as~~
40 ~~modified by Decision 96-01-009, of the Public Utilities~~

1 Commission, can produce hardships for employees who
2 have dedicated their working lives to utility employment.
3 It is preferable that any necessary reductions in the utility
4 work force directly caused by electrical restructuring, be
5 accomplished through offers of voluntary severance,
6 retraining, early retirement, outplacement, and related
7 benefits. Whether work force reductions are voluntary or
8 involuntary, reasonable costs associated with these sorts
9 of benefits should be included in the competition
10 transition charge.

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

20 (1) The cost of the competition transition charge
21 exemptions granted to members of the combined class of
22 residential and small commercial customers shall be
23 recovered only from those customers.

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

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

~~1 and for rate reduction bonds from the California
2 Infrastructure and Economic Development Bank.~~

~~3 (x) California's public utility electrical corporations
4 provide substantial benefits to all Californians, including
5 employment and support of the state's economy.
6 Restructuring the electric services industry pursuant to
7 the act that added this chapter will continue these
8 benefits, and will also offer meaningful and immediate
9 rate reductions for residential and small commercial
10 customers, and facilitate competition in the supply of
11 electric power.~~

~~12 (y) In order to ensure that all customers of an
13 electrical corporation continue to receive basic electric
14 service in a competitive market, each electrical
15 corporation should continue to provide this essential
16 service.~~

~~17 SEC. 6.~~

~~18 SEC. 5. Section 331 of the Public Utilities Code is
19 amended to read:~~

~~20 331. The definitions set forth in this section shall
21 govern the construction of this chapter.~~

~~22 (a) "Aggregator" means any marketer, broker, public
23 agency, city, county, or special district, that combines the
24 loads of multiple end-use customers in facilitating the sale
25 and purchase of electric energy, transmission, and other
26 services on behalf of these customers.~~

~~27 (b) "Basic electric service" includes transmission and
28 distribution of electric power, purchasing electric power
29 on behalf of a customer, and revenue cycle services such
30 as metering customer usage, billing the customer, and
31 related customer services.~~

~~32 (c) "Broker" means an entity that arranges the sale
33 and purchase of electric energy, transmission, and other
34 services between buyers and sellers, but does not take
35 title to any of the power sold.~~

~~36 (d) "Direct transaction" means a contract between
37 any one or more electric generators, marketers, or
38 brokers of electric power and one or more retail
39 customers providing for the purchase and sale of electric
40 power or any ancillary services.~~

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

(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.

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

(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.

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

~~SEC. 7.~~

~~SEC. 6.~~ Section 365.5 of the Public Utilities Code is repealed.

~~SEC. 8.~~

~~SEC. 7.~~ Section 365.5 is added to the Public Utilities Code, to read:

365.5. (a) *The Legislature finds and declares that in order to ensure that all customers of an electrical corporation continue to receive basic electric service in a competitive market, and to protect good California jobs, each electrical corporation should continue to provide this essential service utilizing employees of the corporation.*

(b) 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

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

7 ~~(b)~~

8 (c) Commencing on the date on which the
9 commission-authorized costs for utility generation
10 related assets and obligations have been fully recovered
11 or March 31, 2002, whichever is earlier, the commission
12 shall set the electric energy commodity portion of the
13 bundled rate at an amount equal to the price of electric
14 energy purchased or settled through the Power
15 Exchange. *So that customers will have the lowest possible*
16 *rate for electric power, the commission shall authorize*
17 *the electrical corporation to purchase energy and*
18 *associated ancillary services from the Power Exchange*
19 *and from other sources. Any difference between the cost*
20 *of purchases from other sources and the cost of purchases*
21 *from the Power Exchange shall be shared by the*
22 *electrical corporation and bundled service customers in*
23 *a manner determined by the commission. All costs of*
24 *procurement, other than the purchases of energy and*
25 *ancillary services, shall be included as part of the basic*
26 *distribution rate paid by all distribution customers.*

27 ~~(e)~~

28 (d) The commission shall authorize each electrical
29 corporation to offer all customers unbundled electric
30 energy at time-of-use based rates, and shall also authorize
31 an electrical corporation to offer other optional
32 competitive rates and services.

33 ~~SEC. 9.~~

34 SEC. 8. No reimbursement is required by this act
35 pursuant to Section 6 of Article XIII B of the California
36 Constitution because the only costs that may be incurred
37 by a local agency or school district will be incurred
38 because this act creates a new crime or infraction,
39 eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition
2 of a crime within the meaning of Section 6 of Article
3 XIII B of the California Constitution.

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