

AMENDED IN ASSEMBLY MAY 25, 2000

AMENDED IN ASSEMBLY MAY 15, 2000

AMENDED IN ASSEMBLY MAY 8, 2000

AMENDED IN ASSEMBLY MAY 1, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2638

Introduced by Assembly Member Calderon

February 25, 2000

An act to ~~amend Section 374 of, and to add Sections 454.5 and 9607 to, add Section 454.5 to~~ the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2638, as amended, Calderon. Public utilities: electrical power.

(1) ~~Existing law relating to electrical restructuring exempts specified entities from the obligation to pay certain uneconomic costs of that restructuring.~~

~~This bill would provide that the exemption does not apply to any irrigation district providing firm electrical service to customers representing load participating in an electrical corporation's nonfirm electrical service program as of May 1, 2000.~~

(2) ~~Existing law prohibits a public utility from changing any rate or altering any classification, contract, practice, or rule so as to result in any new rate, except upon a showing before the~~

~~commission and a finding by the Public Utilities Commission that the new rate is justified.~~

~~This bill would authorize an electrical corporation or a local publicly owned utility to continue to recover the cost incurred to provide electric distribution service to each retail customer from existing and future retail customers, within the service territory of the utility as of a specified date when the customers take electric distribution service from an irrigation district at the same location after a specified date.~~

~~(3) The~~

~~The Irrigation District Law authorizes an irrigation district that is governed under that law to sell, dispose of, and distribute electric power for use outside its boundaries.~~

~~This bill would require the commission to approve the sale of electricity by an irrigation district in the service territory of specified entities. Prior to granting approval, the commission would be required to make findings, as prescribed. Because this bill would increase the duties of local entities by requiring them to obtain commission approval in order to sell electricity, it would impose a state-mandated local program make certain declarations concerning the need for a state energy policy relating to electric distribution or transmission by an irrigation district.~~

~~(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.~~

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

1 ~~SECTION 1. Section 374 of the Public Utilities Code~~
2 ~~is~~ Section 454.5 is added to the Public Utilities Code, to
3 read:

4 454.5. (a) *The Legislature finds and declares that it*
5 *is essential that California have a rational state energy*
6 *policy relating to electric distribution or transmission*
7 *service provided by an irrigation district or districts*
8 *within the service territory of an electrical corporation or*
9 *local publicly owned utility on or after May 1, 2000.*

10 (b) *In furtherance of establishing a rational state*
11 *energy policy, it is the intent of the Legislature that a*
12 *statutory framework be adopted during the 1999–2000*
13 *Regular Session that will provide the commission with*
14 *guidance and the necessary authority to resolve all of the*
15 *following issues:*

16 (1) *Stranded distribution and transmission costs and*
17 *how they occur and their effects on both utility*
18 *companies and irrigation districts and the customers that*
19 *they serve.*

20 (2) *Cost-shifting issues relating to electric distribution*
21 *and transmission service by irrigation districts and utility*
22 *companies.*

23 (3) *Criteria for providing electric distribution and*
24 *transmission service to customers within and between*
25 *utility and irrigation district territories, including, but not*
26 *limited to, a review of agreements between electric*
27 *service providers.*

28 (4) *Shareholder versus ratepayer impacts, relative to*
29 *the effects of irrigation district operations within utility*
30 *company service territories.*

31 (5) *The nature and application of “universal service”*
32 *requirements for irrigation districts serving customers*
33 *within utility company service territories.*

34 (6) *The issue of condemnation powers available to*
35 *irrigation districts in pursuing electric transmission and*
36 *transmission projects within utility company service*
37 *territories.*

(7) California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) issues relating to irrigation district provision of electric transmission and distribution service.

(8) Local Agency Formation Commission issues relating to irrigation district provision of electric transmission and distribution service.

(9) Independent System Operator and Independent System Operator system reliability issues relating to differences between irrigation districts and utility electric companies.

amended to read:

~~374. (a) In recognition of statutory authority and past investments existing as of December 20, 1995, and subject to the fire wall specified subdivision (e) of Section 367, the obligation to pay the uneconomic costs identified in Sections 367, 368, 375, and 376 do not apply to any of the following:~~

~~(1) One hundred ten megawatts of load served by irrigation districts, as hereafter allocated by this paragraph:~~

~~(A) The 110 megawatts of load shall be allocated among the service territories of the three largest electrical corporations in the ratio of the number of irrigation districts in the service territory of each utility to the total number of irrigation districts in the service territories of all three utilities.~~

~~(B) The total amount of load allocated to each utility service area shall be phased in over five years beginning January 1, 1997, so that one-fifth of the allocation is allocated in each of the five years. Any allocation which remains unused at the end of any year shall be carried over to the succeeding year and added to the allocation for that year.~~

~~(C) The load allocated to each utility service territory pursuant to subparagraph (A) shall be further allocated among the respective irrigation districts within that service territory by the California Energy Resources Conservation and Development Commission. An individual irrigation district requesting such an allocation~~

1 shall submit to the commission by January 31, 1997,
2 detailed plans that show the load that it serves or will
3 serve and for which it intends to utilize the allocation
4 within the timeframe requested. These plans shall
5 include specific information on the irrigation districts'
6 organization for electric distribution, contracts, financing
7 and engineering plans for capital facilities, as well as
8 detailed information about the loads to be served, and
9 shall not be less than eight megawatts or more than 40
10 megawatts. Provided, however, any portion of the 110
11 megawatts that remains unallocated may be reallocated
12 to projects without regard to the 40 megawatts limitation.
13 In making such an allocation among irrigation districts,
14 the Energy Resources Conservation and Development
15 Commission shall assess the viability of each submission
16 and whether it can be accomplished in the timeframe
17 proposed. The Energy Resources Conservation and
18 Development Commission shall have the discretion to
19 allocate the load covered by this section in a manner that
20 best ensures its usage within the allocation period.

21 (D) At least 50 percent of each year's allocation to a
22 district shall be applied to that portion of load that is used
23 to power pumps for agricultural purposes.

24 (E) Any load pursuant to this subdivision shall be
25 served by distribution facilities owned by, or leased to, the
26 district in question.

27 (F) Any load allocated pursuant to paragraph (1) shall
28 be located within the boundaries of the affected irrigation
29 district, or within the boundaries specified in an
30 applicable service territory boundary agreement
31 between an electrical corporation and the affected
32 irrigation district; additionally, the provisions of
33 subparagraph (C) of paragraph (1) shall be applicable to
34 any load within the Counties of Stanislaus or San Joaquin,
35 or both, served by any irrigation district that is currently
36 serving or will be serving retail customers.

37 (2) Seventy-five megawatts of load served by the
38 Merced Irrigation District hereafter prescribed in this
39 paragraph:

~~(A) The total allocation provided by this paragraph shall be phased in over five years beginning January 1, 1997, so that one-fifth of the allocation is received in each of the five years. Any allocation which remains unused at the end of any year shall be carried over to the succeeding year and added to the allocation for that year.~~

~~(B) Any load to which the provision of this paragraph is applicable shall be served by distribution facilities owned by, or leased to, Merced Irrigation District.~~

~~(C) A load to which the provisions of this paragraph are applicable shall be located within the boundaries of Merced Irrigation District as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base which was located outside of the district on that date.~~

~~(D) The total allocation provided by this paragraph shall be phased in over five years beginning January 1, 1997, with the exception of load already being served by the district as of June 1, 1996, which shall be deducted from the total allocation and shall not be subject to the costs provided in Sections 367, 368, 375, and 376.~~

~~(3) To loads served by irrigation districts, water districts, water storage districts, municipal utility districts, and other water agencies which, on December 20, 1995, were members of the Southern San Joaquin Valley Power Authority, or the Eastside Power Authority; provided, however, that this paragraph shall be applicable only to that portion of each district or agency's load that is used to power pumps which are owned by that district or agency as of December 20, 1995, or replacements thereof, and is being used to pump water for district purposes. The rates applicable to these districts and agencies shall be adjusted as of January 1, 1997.~~

~~(4) The provisions of this subdivision shall no longer be operative after March 31, 2002.~~

~~(5) The provisions of paragraph (1) shall not be applicable to any irrigation district, water district or water agency described in paragraph (2) or (3).~~

1 ~~(6) Transmission services provided to any irrigation~~
2 ~~district described in paragraph (1) or (2) shall be~~
3 ~~provided pursuant to otherwise applicable tariffs.~~

4 ~~(7) Nothing in this chapter shall be deemed to grant~~
5 ~~the commission any jurisdiction over irrigation districts~~
6 ~~not already granted to the commission by existing law.~~

7 ~~(8) Notwithstanding any other provision of law, this~~
8 ~~subdivision does not apply to any irrigation district~~
9 ~~providing firm electrical service to customers~~
10 ~~representing load participating in an electrical~~
11 ~~corporation's nonfirm electrical service program as of~~
12 ~~May 1, 2000.~~

13 ~~(b) To give the full effect to the legislative intent in~~
14 ~~enacting Section 701.8, the costs provided in Sections 367,~~
15 ~~368, 375, and 376 shall not apply to the load served by~~
16 ~~preference power purchased from a federal power~~
17 ~~marketing agency, or its successor, pursuant to Section~~
18 ~~701.8 as it existed on January 1, 1996, provided the power~~
19 ~~is used solely for the customer's own systems load and not~~
20 ~~for sale. The costs of this provision shall be borne by all~~
21 ~~ratepayers in the affected service territory,~~
22 ~~notwithstanding the fire wall established in subdivision~~
23 ~~(e) of Section 367.~~

24 ~~(c) To give effect to an existing relationship, the~~
25 ~~obligation to pay the uneconomic costs specified in~~
26 ~~Sections 367, 368, 375, and 376 shall not apply to that~~
27 ~~portion of the load of the University of California campus~~
28 ~~situated in Yolo County that was being served as of May~~
29 ~~31, 1996, by preference power purchased from a federal~~
30 ~~marketing agency, or its successor, provided the power is~~
31 ~~used solely for the facility load of that campus and not,~~
32 ~~directly or indirectly, for sale.~~

33 ~~SEC. 3. Section 454.5 is added to the Public Utilities~~
34 ~~Code, to read:~~

35 ~~454.5. (a) In order to avoid cost shifting and to ensure~~
36 ~~that each retail customer of an electrical corporation or~~
37 ~~local publicly owned utility pays their proportionate~~
38 ~~share of costs incurred by the electrical corporation or~~
39 ~~local publicly owned utility to provide electric~~
40 ~~distribution service to each retail customer, these costs~~

~~1 shall continue to be recoverable from existing and future
2 retail customers within the service territory of the
3 electrical corporation or local publicly owned utility as of
4 May 1, 2000, who take electric distribution service from
5 an irrigation district at the same location after May 1,
6 2000.~~

~~7 (b) Recovery of the costs by an electrical corporation
8 shall be in a nonbypassable charge or any other manner
9 determined by the commission. Recovery of the costs by
10 a local publicly owned utility shall be in a nonbypassable
11 charge or any other manner approved by its governing
12 body consistent with this section, existing contracts, and
13 relevant state law.~~

~~14 SEC. 4. Section 9607 is added to the Public Utilities
15 Code, to read:~~

~~16 9607. (a) For purposes of this section, "district"
17 means an irrigation district furnishing electric services
18 formed pursuant to the Irrigation District Law as set forth
19 in Division 11 (commencing with Section 20500) of the
20 Water Code.~~

~~21 (b) Notwithstanding any other provision of law, a
22 district may not, without the approval of the commission,
23 construct, lease, acquire, or operate facilities for the
24 distribution or transmission of electricity to retail
25 customers located in the service territory of an electrical
26 corporation providing electric distribution services as
27 that territory existed on May 1, 2000, or in the service
28 territory of a local publicly owned electric utility
29 providing electric distribution services as of May 1, 2000.~~

~~30 (c) The commission may not approve the request of a
31 district to provide distribution or transmission of
32 electricity to retail customers located in the service
33 territory of an entity as set forth in subdivision (a) unless
34 the commission determines all of the following:~~

~~35 (1) Construction of duplicative facilities by the district
36 within the service territory will not have an unnecessary
37 adverse impact on the environment or property values.~~

~~38 (2) Service by the district within the service territory
39 is in the public interest.~~

1 ~~(3) Service by the district within the service territory~~
2 ~~is consistent with the policies of the state to prevent or~~
3 ~~eliminate economic waste as set forth in Section 8101.~~

4 ~~(4) Service by the district within the service territory~~
5 ~~does not adversely impact the ability of the electrical~~
6 ~~corporation or local publicly owned electric utility to~~
7 ~~provide adequate service at reasonable rates within the~~
8 ~~remainder of its service territory.~~

9 ~~(5) Service by the district within the service territory~~
10 ~~does not reduce in value or render useless any facilities~~
11 ~~previously constructed by the electrical corporation or~~
12 ~~local publicly owned electric utility.~~

13 ~~SEC. 5. Notwithstanding Section 17610 of the~~
14 ~~Government Code, if the Commission on State Mandates~~
15 ~~determines that this act contains costs mandated by the~~
16 ~~state, reimbursement to local agencies and school~~
17 ~~districts for those costs shall be made pursuant to Part 7~~
18 ~~(commencing with Section 17500) of Division 4 of Title~~
19 ~~2 of the Government Code. If the statewide cost of the~~
20 ~~claim for reimbursement does not exceed one million~~
21 ~~dollars (\$1,000,000), reimbursement shall be made from~~
22 ~~the State Mandates Claims Fund.~~