

AMENDED IN SENATE AUGUST 7, 2000

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 add Section 454.5 to the Public Utilities Code, An act to amend Section 8104 of, and to add Sections 454.1, 454.5, 9607, 9607.1, and 9607.2 to, the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

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

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. *Other existing law authorizes the Public Utilities Commission to establish rates for public utilities regulated by the commission.*

This bill would make certain declarations concerning the need for a state energy policy relating to electric distribution or transmission by an irrigation district.

The bill would authorize an electrical corporation to discount its rate to its marginal cost if a customer receives a bona fide offer for electric distribution service from an irrigation district or a joint powers authority as specified. The bill would require an irrigation district, as defined, that provides electric transmission or distribution service to retail customers, to comply with certain requirements, including a requirement that the irrigation district offer distribution service to its customers at published tariff rates and on a just, reasonable, and nondiscriminatory basis.

The bill, except as specified, would prohibit an irrigation district from providing electric transmission or distribution service to any retail customer located outside the boundaries of the irrigation district unless it complies with specified conditions.

The bill would prohibit an irrigation district from exercising the right of eminent domain to take property owned by an electrical corporation if the irrigation district intends to put the property to the same or similar use.

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

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

1 SECTION 1. Section 454.1 is added to the Public
2 Utilities Code, to read:
3 454.1. If a customer located within the service
4 territory of an electrical corporation receives a bona fide
5 offer for electric distribution service from an irrigation
6 district or a joint powers authority that includes an
7 irrigation district at rates less than the electrical
8 corporation's tariffed rates, the electrical corporation
9 may discount its rate to its marginal cost of serving that
10 customer. The electrical corporation may recover any
11 difference between its tariffed and discounted service
12 from its remaining customers, allocated as determined by
13 the commission, but may not increase rates to its
14 remaining customers by any greater amount than the
15 rates would be increased had the customer taken electric

1 *distribution service from the irrigation district or the joint*
2 *powers authority.*

3 SEC. 2. Section 454.5 is added to the Public Utilities
4 Code, to read:

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

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

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

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

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

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

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

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

39 (7) California Environmental Quality Act (Division 13
40 (commencing with Section 21000) of the Public

1 Resources Code) issues relating to irrigation district
2 provision of electric transmission and distribution service.

3 ~~(8) Local Agency Formation Commission issues~~

4 (8) *Issues with regard to a local agency formation*
5 *commission, as described in the Cortese-Knox Local*
6 *Government Reorganization Act of 1985 (Division 3*
7 *(commencing with Section 56000) of Title 5 of the*
8 *Government Code), relating to irrigation district*
9 *provision of electric transmission and distribution service.*

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

14 SEC. 3. *Section 8104 of the Public Utilities Code is*
15 *amended to read:*

16 8104. ~~If~~ *Unless* the commission finds that it is ~~for~~ *not*
17 *in the best interests of the State and of the utility, and not*
18 *or finds it is* incompatible with any public interest that the
19 petition be granted, ~~it~~ *the commission* shall make and
20 issue its order limiting the area or areas within which the
21 utility shall have the right and authority to sell or
22 distribute electric power or energy, directly or indirectly,
23 or define the area or areas within which the utility shall
24 not have the right or authority to sell or distribute electric
25 power or energy, directly or indirectly. The commission
26 may, in its order, approve and thereby authorize the
27 contract or conditions, if any, in connection therewith. No
28 limitation or definition of area or areas or statement of
29 conditions shall be included in the order except as
30 contained in the petition and contract.

31 SEC. 4. *Section 9607 is added to the Public Utilities*
32 *Code, to read:*

33 9607. (a) *Notwithstanding any other provision of*
34 *law, an irrigation district that provides electric*
35 *transmission or distribution service to retail customers*
36 *shall comply with all of the following conditions:*

37 (1) *The irrigation district shall offer electric*
38 *distribution service to customers within the district's*
39 *boundaries at published tariff rates and on a just,*
40 *reasonable, and nondiscriminatory basis.*

1 (2) *In order to avoid increasing costs to customers of*
2 *electrical corporations, if a retail customer is electrically*
3 *connected to an electrical corporation, the irrigation*
4 *district may not electrically connect the customer unless*
5 *the irrigation district first pays the electrical corporation*
6 *a charge established by the commission to reimburse the*
7 *electrical corporation for the fair and reasonable costs*
8 *incurred by the electrical corporation to provide electric*
9 *transmission and distribution service to the retail*
10 *customer. If the commission established an ongoing*
11 *charge, the irrigation district shall agree in writing to pay*
12 *the ongoing charge. If the commission has not established*
13 *either a charge or a formula for calculation of a charge as*
14 *of the date an irrigation district has designated to*
15 *electrically connect a retail customer, the irrigation*
16 *district shall agree in writing to pay the charge for that*
17 *retail customer before electrically connecting the*
18 *customer.*

19 (3) *If the irrigation district offers commercial or*
20 *industrial customers a rate below the rate offered to*
21 *commercial or industrial customers by an electrical*
22 *corporation with an obligation to serve in that area, the*
23 *irrigation district shall offer agricultural and residential*
24 *customers a rate reduced below the rate offered by the*
25 *electrical corporation to agricultural and residential*
26 *ratepayers by no less than the same percentage*
27 *reduction.*

28 (4) *Service by the irrigation district will not adversely*
29 *affect the reliability of an existing service by the irrigation*
30 *district or by the electrical corporation.*

31 (b) *Notwithstanding any other provision of law, an*
32 *irrigation district may not provide electric transmission*
33 *or distribution service to any retail customer located*
34 *outside the boundaries of the irrigation district unless, in*
35 *addition to complying with all of the conditions in*
36 *subdivision (a), the irrigation district complies with both*
37 *of the following:*

38 (1) *The irrigation district is providing electric*
39 *distribution service to no less than 50 percent of the*

1 residential and agricultural customers within the
2 district's boundaries.

3 (2) No less than one-third of the electricity
4 consumption delivered by an irrigation district outside its
5 boundaries are associated with residential and
6 agricultural customers. If by the end of a calendar year an
7 irrigation district is not in compliance with this section,
8 the irrigation district may not electrically connect any
9 commercial or industrial customers outside of its
10 boundaries until it brings itself into compliance and files
11 a report with the commission documenting its
12 compliance.

13 (c) An irrigation district providing electric
14 transmission or distribution service to retail customers
15 outside of its boundaries shall prepare an annual report
16 available to the public on the total load and number of
17 accounts of residential, low-income, agricultural,
18 commercial, and industrial customers served by the
19 irrigation district outside of its boundaries.

20 (d) (1) No electric transmission or distribution
21 facilities may be constructed or installed by an irrigation
22 district outside the irrigation district's boundaries in
23 order to serve retail customers outside the irrigation
24 district's boundaries without the prior approval, after
25 review under the California Environmental Quality Act
26 (Division 13 of the Public Resources Code), by the
27 appropriate lead agency as set forth in paragraph (2)
28 below.

29 (2) For any project involving construction or
30 installation of electric transmission or distribution
31 facilities outside the boundaries of the irrigation district,
32 the board of supervisors of the county in which the
33 construction or installation is to occur shall act as the lead
34 agency. If a project involves the construction or
35 installation of electric transmission or distribution
36 facilities in more than one county, the board of
37 supervisors of the county where the majority of the
38 construction is anticipated to occur shall act as the lead
39 agency.

1 (e) The commission shall have jurisdiction to resolve
2 and adjudicate complaint cases brought against an
3 irrigation district by an interested party located outside
4 an irrigation district's boundaries involving violations of
5 the provisions of this section.

6 (f) For purposes of this section, "irrigation district"
7 means an irrigation district formed pursuant to the
8 Irrigation District Law as set forth in Division 11
9 (commencing with Section 20500) of the Water Code or
10 a joint powers authority that includes an irrigation
11 district.

12 SEC. 5. Section 9607.1 is added to the Public Utilities
13 Code, to read:

14 9607.1. The provisions of Section 454.1 and 9607 do not
15 apply to an irrigation district with respect to an area to be
16 served by the irrigation district, if all of the following
17 occur:

18 (a) The irrigation district acquires substantially all the
19 electric distribution facilities and related subtransmission
20 facilities of any electrical corporation that has an
21 obligation to provide electric distribution service within
22 the area to be served by the irrigation district.

23 (b) The commission approves a service area
24 agreement between the irrigation district and the
25 electrical corporation pursuant to Sections 8101 to 8108,
26 inclusive, which service area agreement provides that the
27 electrical corporation may not provide electric
28 distribution service in the area to be served by the
29 irrigation district and that the irrigation district may not
30 provide electric distribution service in the remainder of
31 the electrical corporation's service territory.

32 (c) The commission relieves the electrical corporation
33 of its obligation to serve within the area to be served by
34 the irrigation district.

35 SEC. 6. Section 9607.2 is added to the Public Utilities
36 Code, to read:

37 9607.2. Notwithstanding any other provision of law,
38 an irrigation district may not exercise the right of
39 eminent domain to take property owned by an electrical

1 *corporation if the irrigation district intends to put the*
2 *property to the same or similar use.*

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