

AMENDED IN SENATE AUGUST 18, 2000
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 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. An act to add Sections 454.1, 744.6, 9607, 9608, and 9609 to the Public Utilities Code, and to amend Sections 20804 and 20805 of the Water Code, relating to services.~~

LEGISLATIVE COUNSEL'S DIGEST

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

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, *with specified exceptions*, 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~~ *prohibit* an irrigation district, as defined, ~~that provides electric transmission or distribution service from distributing or transmitting electricity to retail customers without the approval of the commission, and would require a district 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 commission would be required to make a determination as to various matters before granting approval. The bill would provide specific exemptions from these requirements.~~

~~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, *without the agreement of an electrical corporation and with a specified exception*, 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.

The bill would provide that, notwithstanding any other provision of law, as soon as practicable after the end of the rate freeze, every electrical corporation, as described, shall consolidate the corporation's agricultural and commercial rate schedules, as prescribed.

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

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

~~SECTION 1. Section 454.1 is added to the Public~~

SECTION 1. Section 454.1 is added to the Public Utilities Code, to read:

454.1. (a) Except as provided in subdivision (b), if a customer with a maximum peak electrical demand in excess of 20 kilowatts located or planning to locate within the service territory of an electrical corporation receives a bona fide offer for electric distribution service from an irrigation district at rates less than the electrical corporation's tariffed rates, the electrical corporation may discount its rate to its marginal cost of serving that customer. The electrical corporation may recover any difference between its tariffed and discounted service from its remaining customers, allocated as determined by the commission. However, the reallocation may not increase rates to its remaining customers by any greater amount than the rates would be increased if the customer had taken electric distribution service from the irrigation district and the irrigation district had paid the charge established in subdivision (e) of Section 9607, and if there is a firewall preventing the reallocation of such differences resulting from discounting to residential customers or to commercial customers with maximum peak demands not in excess of 20 kilowatts.

(b) Subdivision (a) does not apply to a cumulative 75 megawatts of load served by the Merced Irrigation District, determined as follows:

(1) The load is 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 the district on that date.

(2) For purposes of this section, a megawatt of load shall be calculated in accordance with the methodology established by the California Energy Resource Conservation and Development Commission in its Docket No. 96-IRR-1890.

1 (c) Subdivision (a) applies to the load of customers
2 that move to the areas described in paragraph (1) after
3 December 31, 2000, and such load shall be excluded from
4 the calculation of the 75 megawatts in subdivision (b).

5 SEC. 2. Section 744.6 is added to the Public Utilities
6 Code, to read:

7 744.6. Notwithstanding any other provision of law, the
8 commission shall, as soon as practicable after the end of
9 the rate freeze, require every electrical corporation
10 serving more than four million California electric
11 customers which is also a gas corporation serving more
12 than three million five hundred thousand California gas
13 customers to consolidate the electrical corporation's
14 agricultural and commercial rate schedules for all
15 customers with electrical demands not exceeding 100
16 kilowatts.

17 SEC. 3. Section 9607 is added to the Public Utilities
18 Code, to read:

19 9607. (a) Except as otherwise provided in this section
20 and Section 9608, and notwithstanding any other
21 provision of law, an irrigation district may not, without
22 the approval of the commission, construct, lease, acquire,
23 install, or operate facilities for the distribution or
24 transmission of electricity to retail customers located in
25 the service territory of an electrical corporation
26 providing electric distribution services. The commission
27 may approve the request of a district to provide
28 distribution or transmission of electricity to retail
29 customers located in the service territory of an electrical
30 corporation providing electric distribution service if,
31 after notice and hearing, the commission first determines
32 all of the following:

33 (1) The district will provide universal service to all
34 retail customers who request service within the area to be
35 served, at published tariff rates and on a just, reasonable,
36 and nondiscriminatory basis, comparable to that
37 provided by the current retail service provider.

38 (2) Construction of electric facilities by the district
39 within the service territory will not have a significant
40 adverse impact on the environment.

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

4 (4) Service by the district will not adversely affect the
5 reliability of an existing service by the district or by the
6 electrical corporation.

7 (5) Service by the district within the service territory
8 will not adversely impact the ability of the electrical
9 corporation to provide adequate service at reasonable
10 rates within its service territory.

11 (6) The district has established, funded, and is carrying
12 out public purpose and low-income programs in
13 accordance with Section 385.

14 (7) That district's tariffed electric rates, exclusive of
15 commodity costs, will be at least 15 percent below the
16 tariffed electric rates, exclusive of commodity costs and
17 nonbypassable charges under Sections 367, 368, 375, 376,
18 and 379, of the electrical corporation for comparable
19 services.

20 (8) Service by the district is in the public interest.

21 (b) An irrigation district that obtains the approval of
22 the commission under this section to serve an area shall
23 prepare an annual report available to the public on the
24 total load and number of accounts of residential,
25 low-income, agricultural, commercial, and industrial
26 customers served by the irrigation district in the
27 approved service area.

28 (c) The commission shall have jurisdiction to resolve
29 and adjudicate complaint cases brought against an
30 irrigation district by an interested party for failure to
31 comply with this section or involving violations of
32 commission decisions or orders involving the provisions
33 of this section.

34 (d) No electric transmission or distribution facilities
35 may be constructed or installed by an irrigation district to
36 serve retail customers located in the service territory of
37 an electrical corporation providing electric distribution
38 services without the prior approval after review under
39 the California Environmental Quality Act, (Division 13
40 (commencing with Section 21000) of the Public

1 *Resources Code*) by the appropriate lead agency. For any
2 *project involving construction or installation of electric*
3 *transmission or distribution facilities for which the*
4 *irrigation district needs the approval of the commission*
5 *under subdivision (a), the board of supervisors of the*
6 *county in which the construction or installation is to occur*
7 *shall act as the lead agency. If a project involves the*
8 *construction or installation of electric transmission or*
9 *distribution facilities in more than one county, the board*
10 *of supervisors of the county where the majority of the*
11 *construction is anticipated to occur shall act as the lead*
12 *agency.*

13 *(e) In order to avoid increasing costs to customers of*
14 *electrical corporations, if a retail customer is electrically*
15 *connected to an electrical corporation, an irrigation*
16 *district may not electrically connect the customer unless*
17 *the irrigation district first pays the electrical corporation*
18 *a charge established by the commission to reimburse the*
19 *electrical corporation for the fair and reasonable costs*
20 *incurred by the electrical corporation to provide electric*
21 *transmission and distribution service to the retail*
22 *customer. If the commission establishes an ongoing*
23 *charge, the irrigation district shall agree in writing to pay*
24 *the ongoing charge. If the commission has not established*
25 *either a charge or a formula for calculation of a charge as*
26 *of the date an irrigation district has designated to*
27 *electrically connect a retail customer, the irrigation*
28 *district shall agree in writing to pay the charge for that*
29 *retail customer before electrically connecting the*
30 *customer.*

31 *(f) The provisions of this section do not apply to a*
32 *cumulative 90 megawatts of load served by the Merced*
33 *Irrigation District, determined as follows:*

34 *(1) The load is located within the boundaries of*
35 *Merced Irrigation District, as those boundaries existed on*
36 *December 20, 1995, together with the territory of Castle*
37 *Air Force Base which was located outside the district on*
38 *that date.*

39 *(2) For purposes of this section, a megawatt of load*
40 *shall be calculated in accordance with the methodology*

1 established by the California Energy Resource
2 Conservation and Development Commission in its
3 Docket No. 96-IRR-1890, but the 90 megawatts shall not
4 include electrical usage by customers that move to the
5 areas described in paragraph (1) after December 31,
6 2000.

7 SEC. 4. Section 9608 is added to the Public Utilities
8 Code, to read:

9 9608. The provisions of Sections 454.1 and 9607 do not
10 apply to an irrigation district with respect to an area to be
11 served by the irrigation district, if all of the following
12 occur:

13 (a) The irrigation district acquires substantially all the
14 electric distribution facilities and related subtransmission
15 facilities of any electrical corporation that has an
16 obligation to provide electric distribution service within
17 the area to be served by the irrigation district.

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

27 (c) The commission relieves the electrical corporation
28 of its obligation to serve within the area to be served by
29 the irrigation district.

30 SEC. 5. Section 9609 is added to the Public Utilities
31 Code, to read:

32 9609. Notwithstanding any other provision of law, an
33 irrigation district may not, without the electrical
34 corporation's agreement, exercise the right of eminent
35 domain to take electric facilities or real property
36 necessary to the operation of those facilities owned by an
37 electrical corporation if the irrigation district intends to
38 put the facilities or real property to the same or similar
39 use. This section shall not apply to condemnation of
40 easements required by an irrigation district reasonably

1 *necessary to cross an electrical corporation's distribution*
2 *or transmission system and which would not interfere*
3 *with the operation and maintenance of the electrical*
4 *corporation's system.*

5 *SEC. 6. Section 20804 of the Water Code is amended*
6 *to read:*

7 20804. At the hearing the board of supervisors shall
8 determine by resolution whether or not the petition and
9 notice comply with Chapter 1 of this part.
10 *Notwithstanding Section 22116 or any other provision of*
11 *law, the board shall also determine whether the petition*
12 *has been presented and the district is proposed to be*
13 *formed for the primary purpose of providing irrigation*
14 *services.*

15 *SEC. 7. Section 20805 of the Water Code is amended*
16 *to read:*

17 20805. (a) If the board of supervisors determines that
18 any of the requirements for the formation petition or
19 notice were not complied with, the petition shall be
20 dismissed without prejudice to the right of the proper
21 number of persons to present a new petition covering the
22 same matter or to present the same petition with
23 additional signatures if additional signatures are
24 necessary to comply with the requirements of Chapter 1
25 of this part.

26 (b) *If the board of supervisors determines that the*
27 *district is being formed for a primary purpose other than*
28 *providing irrigation services, the petition shall be*
29 *dismissed without prejudice to the right of the proper*
30 *number of persons to present a new petition for the*
31 *primary purpose of providing irrigation services.*

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate/ August 7, 2000 (JR 11)**