

AMENDED IN SENATE APRIL 12, 1999

SENATE BILL

No. 797

Introduced by ~~Senator Costa~~ *Senators Costa and Bowen*

February 25, 1999

An act to ~~amend Sections 851 and 853 of the Public Utilities Code,~~ relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 797, as amended, Costa. Public utilities: property.

Existing law requires a public utility other than a specified common carrier to secure authorization from the Public Utilities Commission before disposing of or encumbering certain property necessary or useful in the performance of its duties to the public, or any related franchise, permit, or right. Existing law states that the above provision shall not prevent the disposition by any public utility of property that is not necessary or useful in the performance of its duties to the public, and any disposition of property by a public utility shall be conclusively presumed to be of property that is not useful or necessary in the performance of its duties to the public. Existing law authorizes the commission, by order or rule, to exempt any public utility or class of public utility from provisions governing the disposal of utility property, as prescribed.

This bill would ~~modify those provisions relating to the disposal of public utility property to apply only to property necessary in the performance of duties of the public utility to the public, or any related franchise, permit, or right. The bill would require the commission, on or before July 1, 2000, to~~

~~designate, by rule or order, categories of public utility property that a public utility may sell, lease, or otherwise dispose of or encumber, as determined to be necessary by that public utility, without further approval state the intent of the Legislature to establish a comprehensive process and standards to govern the disposition and future operation of utility-owned hydroelectric facilities and associated properties, addressing specified issues.~~

The bill would become operative only if Senate Bill 1063 of the 1999–2000 Regular Session is enacted and becomes operative.

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

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

1 ~~SECTION 1. (a) The Legislature finds and declares~~
2 *SECTION 1. (a) It is the intent of the Legislature to*
3 *establish a comprehensive process and standards to*
4 *govern the disposition and future operation of*
5 *utility-owned hydroelectric facilities and associated*
6 *properties.*
7 *(b) It is the further intent of the Legislature that the*
8 *process and standards described in subdivision (a)*
9 *address all of the following issues:*
10 *(1) The appropriate valuation and credit towards*
11 *transition costs.*
12 *(2) The exercise of market power in electricity*
13 *generation and ancillary services.*
14 *(3) Water supply and water quality.*
15 *(4) Environmental protection.*
16 *(5) Recreation.*
17 *(6) Economic impacts.*
18 *SEC. 2. This act shall become operative only if Senate*
19 *Bill 1063 of the 1999–2000 Regular Session is enacted and*
20 *becomes operative.*
21 ~~all of the following:~~
22 ~~(1) In enacting electric industry restructuring~~
23 ~~legislation in 1996 (Chapter 854 of the Statutes of 1996),~~
24 ~~the Legislature found and declared that competition will~~



1 encourage innovation, efficiency, and better service in
2 certain electricity markets, and will permit the reduction
3 of costly regulatory oversight.

4 (2) The same state policies regarding the benefits of
5 competition that are applicable to electric power also
6 apply to certain natural gas utility services.

7 (3) The Public Utilities Commission needs to
8 implement reforms of its regulatory procedures to secure
9 to state consumers and businesses the full benefits of
10 competition in the sale and disposition of surplus utility
11 assets in light of electric and gas industry restructuring
12 and other changes in electric and gas utility services.

13 (b) It is the intent of the Legislature in enacting this
14 act to ensure that the Public Utilities Commission
15 streamlines its processes for the sale and disposition of
16 electric and gas utility assets that are no longer necessary
17 for utility service or that would be better utilized through
18 sale or disposition. It is the further intent of the
19 Legislature in enacting this act that the determination by
20 the Public Utilities Commission of new regulatory
21 procedures for the sale and disposition of those assets
22 should be expedited and implemented as soon as possible,
23 to benefit consumers and the marketplace.

24 SEC. 2. Section 851 of the Public Utilities Code is
25 amended to read:

26 851. (a) No public utility other than a common
27 carrier by railroad subject to Part I of the federal
28 Interstate Commerce Act (49 U.S.C. Sec. 10101 and
29 following) shall sell, lease, assign, mortgage, or otherwise
30 dispose of or encumber the whole or any part of its
31 railroad, street railroad, line, plant, system, or other
32 property necessary in the performance of its duties to the
33 public, or any franchise or permit or any right
34 thereunder, nor by any means whatsoever, directly or
35 indirectly, merge or consolidate its railroad, street
36 railroad, line, plant, system, or other property, or
37 franchises or permits or any part thereof, with any other
38 public utility, without first having secured from the
39 commission an order authorizing it so to do. Every sale,
40 lease, assignment, mortgage, disposition, encumbrance,



1 merger, or consolidation made other than in accordance
2 with the order of the commission authorizing it is void.
3 The permission and approval of the commission to the
4 exercise of a franchise or permit under Article 1
5 (commencing with Section 1001) of Chapter 5 of this
6 part, or the sale, lease, assignment, mortgage, or other
7 disposition or encumbrance of a franchise or permit
8 under this article shall not revive or validate any lapsed
9 or invalid franchise or permit, or enlarge or add to the
10 powers or privileges contained in the grant of any
11 franchise or permit, or waive any forfeiture.

12 (b) Nothing in this section shall prevent the sale, lease,
13 encumbrance or other disposition by any public utility of
14 property that is not necessary in the performance of its
15 duties to the public, and any disposition of property by a
16 public utility shall be conclusively presumed to be of
17 property that is not necessary in the performance of its
18 duties to the public, as to any purchaser, lessee or
19 encumbrancer dealing with the property in good faith for
20 value. Nothing in this section applies to the interchange
21 of equipment in the regular course of transportation
22 between connecting common carriers.

23 SEC. 3. Section 853 of the Public Utilities Code is
24 amended to read:

25 853. (a) This article does not apply to any person or
26 corporation that transacts no business subject to
27 regulation under this part, except performing services or
28 delivering commodities for or to public utilities or
29 municipal corporations or other public agencies
30 primarily for resale or use in serving the public or any
31 portion thereof, but shall apply to any public utility, and
32 any subsidiary or affiliate of, or corporation holding a
33 controlling interest in, a public utility, if the commission
34 finds, in a proceeding to which the public utility is or may
35 become a party, that the application of this article is
36 required by the public interest.

37 (b) The commission may, by order or rule, and subject
38 to those terms and conditions prescribed therein, exempt
39 any public utility or class of public utility from this article
40 if the commission finds that the application of this article



1 ~~with respect to the public utility or class of public utility~~
2 ~~is not necessary to protect the public interest. The~~
3 ~~commission may establish rules or impose requirements~~
4 ~~that it determines to be necessary to protect the interest~~
5 ~~of the customers or subscribers of the public utility or class~~
6 ~~of public utility exempted under this subdivision. These~~
7 ~~rules or requirements may include, but are not limited to,~~
8 ~~notification of a proposed sale or transfer of assets or stock~~
9 ~~and provision for refunds or credits to customers or~~
10 ~~subscribers.~~

11 ~~(e) On or before July 1, 2000, the commission, by rule~~
12 ~~or order, shall designate categories of public utility~~
13 ~~property that a public utility may sell, lease, or otherwise~~
14 ~~dispose of or encumber, as determined to be necessary by~~
15 ~~that public utility, without further approval pursuant to~~
16 ~~this article.~~

