

Introduced by Senator Sher

February 26, 1999

An act to amend Section 366.5 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1159, as introduced, Sher. Electrical restructuring: electric service: changes.

(1) Existing law prohibits any change in the aggregator or supplier of electric power for any small commercial customer from being made until the change has been verified, as prescribed.

This bill would require specific procedures for a confirmation of change made via a telephone transaction, an Internet transaction, or a written transaction. The bill would require an aggregator or provider of electric power to keep a record of a confirmation for two years from the date of that confirmation, and to make those records available to the commission in the course of certain commission investigations. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program by creating a new crime.

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 366.5 of the Public Utilities Code
2 is amended to read:
3 366.5. (a) No change in the aggregator or supplier of
4 electric power for any small commercial customer may
5 be made until one of the following means of confirming
6 the change has been completed:-
7 (1) Independent third-party telephone verification.
8 (2) Receipt of a written confirmation received in the
9 mail from the consumer after the consumer has received
10 an information package confirming the agreement.
11 (3) The customer signs a document fully explaining
12 the nature and effect of the change in service.
13 (4) The customer's consent is obtained through
14 electronic means, including but not limited to, computer
15 transactions.
16 (b) No change in the aggregator or provider of electric
17 power for any residential customer may be made *over the*
18 *telephone* until the change has been confirmed by an
19 independent third-party verification company, as
20 follows:
21 (1) The third-party verification company shall meet
22 each of the following criteria:
23 (A) Be independent from the entity that seeks to
24 provide the new service.
25 (B) Not be directly or indirectly managed, controlled,
26 or directed, or owned wholly or in part, by an entity that
27 seeks to provide the new service or by any corporation,
28 firm, or person who directly or indirectly manages,
29 controls, or directs, or owns more than 5 percent of the
30 entity.
31 (C) Operate from facilities physically separate from
32 those of the entity that seeks to provide the new service.
33 (D) Not derive commission or compensation based
34 upon the number of sales confirmed.



(2) The entity seeking to verify the sale shall do so by connecting the resident by telephone to the third-party verification company or by arranging for the third-party verification company to call the customer to confirm the sale.

(3) The third-party verification company shall obtain the customer's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the customer upon request. Information obtained from the customer through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved resident against the entity or its employees who are responsible for the violation.

(4) Notwithstanding paragraphs (1), (2), and (3), an aggregator or provider of electric power shall not be required to comply with these provisions when the customer directly calls an aggregator or provider of electric power to change service providers. However, an aggregator or provider of electric power shall not avoid the verification requirements by asking a customer to contact an aggregator or provider of electric power directly to make any change in the service provider.

(c) No change in the aggregator or provider of electric power for any residential customer may be made via an Internet transaction, in which the customer accesses the website of the aggregator or provider, unless both of the following occur with respect to confirming the change:

(1) In addition to any other information gathered in the course of the transaction, the customer shall be asked to read and respond to a separate screen that states, in easily legible text, the following:

"I acknowledge that in entering this transaction I am voluntarily choosing to change the entity that supplies me with my electric power."

(2) The separate screen shall offer the customer the option to complete or terminate the transaction.

(d) No change in the aggregator or provider of electric power for any residential customer may be made via a

1 written transaction unless the change has been
2 confirmed, as provided in this subdivision. In order to
3 comply with this subdivision, in addition to any other
4 information gathered in the course of the transaction, and
5 in addition to any other signature required, the customer
6 shall be asked to sign a separate line, contained within a
7 box set off from the rest of the document, under the
8 following words printed in ten point type or larger:

9 “I acknowledge that in signing this contract or
10 agreement, I am voluntarily choosing to change the
11 entity that supplies me with electric power.”

12 (e) Any aggregator or provider of electric power
13 offering electricity service to residential and small
14 commercial customers that violates the verification
15 procedures described in this section shall be liable to the
16 aggregator or provider of electric power offering
17 electricity services previously selected by the customer in
18 an amount equal to all charges paid by the customer after
19 the violation.

20 ~~(d) A change in provider of electric power by an~~
21 ~~aggregator is not a change in provider of electric power~~
22 ~~for purposes of this section.~~

23 ~~(e)~~
24 (f) An aggregator or provider of electric power shall
25 keep a record of the confirmation of a change pursuant
26 to subdivision (b), (c), or (d) for two years from the date
27 of that confirmation, and shall make those records
28 available to the commission in the course of a commission
29 investigation of a customer complaint or an investigation
30 pursuant to subdivision (c) of Section 394.2.

31 (g) Public agencies are exempt from this section to the
32 extent they are serving customers within their
33 jurisdiction.

34 ~~(f)~~

35 (h) An electrical corporation is exempt from this
36 section for customers ~~which~~ that default to the service of
37 the electrical corporation.

38 SEC. 2. No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred

1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

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