

AMENDED IN ASSEMBLY APRIL 11, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2663

**Introduced by Assembly Member Wyman
(Coauthors: Assembly Members Dickerson, Mountjoy, and
Robert Pacheco)**

February 22, 2002

An act to amend ~~Section 739 of the Public Utilities Code, and to amend~~ Section 80110 of the Water Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2663, as amended, Wyman. ~~Gas and electricity~~ *Electricity*: baseline quantities and rates.

~~(1) The Public Utilities Act requires the commission to designate a baseline quantity of gas and electricity, as defined, which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. The act requires the commission, in establishing the baseline quantities, to take into account climatic and seasonal variations in consumption and the availability of gas service. The act requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates. Under the act the commission, in establishing baseline rates, is required to avoid excessive rate increases for residential customers. The act also requires the commission to review and revise baseline quantities.~~

~~This bill would additionally require the commission to designate a baseline quantity of gas and electricity for average senior residential customers. In estimating those quantities, the commission would be required to take into account differentials in energy needs resulting~~

~~from seniors spending a disproportionate amount of time in their residences and their increased heating and cooling needs as a result of health problems. The commission would also be required, in approving the baseline rates filed by electrical and gas corporations so as to avoid excessive rate increases, to consider that seniors are often on fixed incomes and have increased heating and cooling needs as a result of health problems.~~

~~A violation of the Public Utilities Act is a crime. This bill by requiring new duties under that act would change the definition of a crime and thus, impose a state-mandated local program.~~

~~(2) Existing~~

~~Existing law authorizes the Department of Water Resources to enter into contracts for the purchase of electric power and permits the department through rates and charges to recover its electric procurement costs and to repay bonds issued to finance the department's purchases of electric power. The ~~commission~~ *Public Utilities Commission* fixes the rates and charges sufficient for the department to recover its electric power procurement costs. In fixing rates and charges sufficient for the department to recover its electric procurement costs, the commission is prohibited from increasing charges for residential customers for baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities in effect on February 1, 2001.~~

~~This bill would prohibit the commission from increasing charges for residential customers for baseline quantities or usage by those customers of up to 130 percent of baseline quantities, to reflect the addition of a separate baseline for average senior residential customers.~~

~~(3) 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~~-no.~~

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

1 ~~SECTION 1. Section 739 of the Public Utilities Code is~~
2 ~~amended to read:~~



1 ~~739. (a) The commission shall designate a baseline quantity~~
2 ~~of gas and electricity which is necessary to supply a significant~~
3 ~~portion of the reasonable energy needs of the average and average~~
4 ~~senior residential customer. In estimating those quantities, the~~
5 ~~commission shall take into account differentials in energy needs~~
6 ~~between customers whose residential energy needs are currently~~
7 ~~supplied by electricity alone or by both electricity and gas. The~~
8 ~~commission shall develop a separate baseline quantity for~~
9 ~~all electric residential customers. For these purposes, “all electric~~
10 ~~residential customers” are residential customers having electrical~~
11 ~~service only or whose space heating is provided by electricity, or~~
12 ~~both. In estimating those quantities for average senior residential~~
13 ~~customers, the commission shall take into account differentials in~~
14 ~~energy needs resulting from seniors spending a disproportionate~~
15 ~~amount of time in their residences and increased heating and~~
16 ~~cooling needs as a result of health problems factoring out the~~
17 ~~specific health problems in subdivision (b). The commission shall~~
18 ~~also take into account differentials in energy use by climatic zone~~
19 ~~and season.~~

20 ~~(b) (1) The commission shall establish a standard limited~~
21 ~~allowance which shall be in addition to the baseline quantity of gas~~
22 ~~and electricity for residential customers dependent on life-support~~
23 ~~equipment, including, but not limited to, emphysema and~~
24 ~~pulmonary patients. A residential customer dependent on~~
25 ~~life-support equipment shall be given a higher energy allocation~~
26 ~~than the average residential customer.~~

27 ~~(2) “Life-support equipment” means that equipment which~~
28 ~~utilizes mechanical or artificial means to sustain, restore, or~~
29 ~~supplant a vital function, or mechanical equipment which is relied~~
30 ~~upon for mobility both within and outside of buildings.~~
31 ~~“Life-support equipment,” as used in this subdivision, includes~~
32 ~~all of the following: all types of respirators, iron lungs,~~
33 ~~hemodialysis machines, suction machines, electric nerve~~
34 ~~stimulators, pressure pads and pumps, aerosol tents, electrostatic~~
35 ~~and ultrasonic nebulizers, compressors, IPPB machines, and~~
36 ~~motorized wheelchairs.~~

37 ~~(3) The limited additional allowance shall also be made~~
38 ~~available to paraplegic and quadriplegic persons in consideration~~
39 ~~of the increased heating and cooling needs of those persons.~~



1 ~~(4) The limited additional allowance shall also be made~~
2 ~~available to multiple sclerosis patients in consideration of the~~
3 ~~increased heating and cooling needs of those persons.~~

4 ~~(5) The limited additional allowance shall also be made~~
5 ~~available to scleroderma patients in consideration of the increased~~
6 ~~heating needs of those persons.~~

7 ~~(6) The limited allowance shall also be made available to~~
8 ~~persons who are being treated for a life-threatening illness or have~~
9 ~~a compromised immune system, provided that a licensed~~
10 ~~physician and surgeon or a person licensed pursuant to the~~
11 ~~Osteopathic Initiative Act certifies in writing to the utility that the~~
12 ~~additional heating or cooling allowance, or both, made available~~
13 ~~pursuant to this subdivision is medically necessary to sustain the~~
14 ~~life of the person or prevent deterioration of the person's medical~~
15 ~~condition.~~

16 ~~(c) (1) The commission shall require that every electrical and~~
17 ~~gas corporation file a schedule of rates and charges providing~~
18 ~~baseline rates. The baseline rates shall apply to the first or lowest~~
19 ~~block of an increasing block rate structure which shall be the~~
20 ~~baseline quantity. In establishing these rates, the commission shall~~
21 ~~avoid excessive rate increases for residential customers, and shall~~
22 ~~establish an appropriate gradual differential between the rates for~~
23 ~~the respective blocks of usage. In establishing the baseline quantity~~
24 ~~for seniors, the commission shall additionally consider that seniors~~
25 ~~are often on fixed incomes and have increased heating and cooling~~
26 ~~needs as a result of health problems.~~

27 ~~(2) In establishing residential electric and gas rates, including~~
28 ~~baseline rates, the commission shall assure that the rates are~~
29 ~~sufficient to enable the electrical corporation or gas corporation to~~
30 ~~recover a just and reasonable amount of revenue from residential~~
31 ~~customers as a class, while observing the principle that electricity~~
32 ~~and gas services are necessities, for which a low affordable rate is~~
33 ~~desirable and while observing the principle that conservation is~~
34 ~~desirable in order to maintain an affordable bill.~~

35 ~~(3) At least until December 31, 2003, the commission shall~~
36 ~~require that all charges for residential electric customers are~~
37 ~~volumetric, and shall prohibit any electrical corporation from~~
38 ~~imposing any charges on residential consumption that are~~
39 ~~independent of consumption, unless those charges are in place~~
40 ~~prior to the effective date of the act that added this paragraph.~~



1 ~~(d) As used in this section:~~

2 ~~(1) “Baseline quantity” means a quantity of electricity or gas~~
3 ~~for residential customers to be established by the commission~~
4 ~~based on from 50 to 60 percent of average and average senior~~
5 ~~residential consumption of these commodities, except that, for~~
6 ~~residential gas customers and for all-electric residential~~
7 ~~customers, the baseline quantity shall be established at from 60 to~~
8 ~~70 percent of average residential consumption during the winter~~
9 ~~heating season. In establishing the baseline quantities, the~~
10 ~~commission shall take into account climatic and seasonal~~
11 ~~variations in consumption and the availability of gas service. The~~
12 ~~commission shall review and revise baseline quantities as average~~
13 ~~consumption patterns change in order to maintain these ratios.~~

14 ~~(2) “Residential customer” means those customers receiving~~
15 ~~electrical or gas service pursuant to a domestic rate schedule and~~
16 ~~excludes industrial, commercial, and every other category of~~
17 ~~customer.~~

18 ~~(e) Wholesale electrical or gas purchases, and the rates charged~~
19 ~~therefor, are exempt from this section.~~

20 ~~(f) Nothing contained in this section shall be construed to~~
21 ~~prohibit experimentation with alternative gas or electrical rate~~
22 ~~schedules for the purpose of achieving energy conservation.~~

23 ~~SEC. 2.—~~

24 ~~SECTION 1.~~ Section 80110 of the Water Code is amended to
25 read:

26 80110. The department shall retain title to all power sold by
27 it to the retail end use customers. The department shall be entitled
28 to recover, as a revenue requirement, amounts and at the times
29 necessary to enable it to comply with Section 80134, and shall
30 advise the commission as the department determines to be
31 appropriate. ~~Such revenue~~ *Revenue* requirements may also
32 include any advances made to the department hereunder or
33 hereafter for purposes of this division, or from the Department of
34 Water Resources Electric Power Fund, and General Fund moneys
35 expended by the department pursuant to the Governor’s
36 Emergency Proclamation dated January 17, 2001. For purposes of
37 this division and except as otherwise provided in this section, the
38 Public Utility Commission’s authority as set forth in Section 451
39 of the Public Utilities Code shall apply, except any just and
40 reasonable review under Section 451 shall be conducted and



1 determined by the department. The commission may enter into an
 2 agreement with the department with respect to charges under
 3 Section 451 for purposes of this division, and that agreement shall
 4 have the force and effect of a financing order adopted in
 5 accordance with Article 5.5 (commencing with Section 840) of
 6 Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as
 7 determined by the commission. In no case shall the commission
 8 increase the electricity charges in effect on the date that the act that
 9 adds this section becomes effective for residential customers for
 10 baseline quantities or usage by those customers of up to 130
 11 percent of baseline quantities, until ~~such time as~~ *that time that* the
 12 department has recovered the costs of power it has procured for the
 13 electrical corporation's retail end use customers as provided in this
 14 division. After the passage of ~~such~~ *that* period of time after the
 15 effective date of this section as shall be determined by the
 16 commission, the right of retail end use customers pursuant to
 17 Article 6 (commencing with Section 360) of Chapter 2.3 of Part
 18 1 of Division 1 of the Public Utilities Code to acquire service from
 19 other providers shall be suspended until the department no longer
 20 supplies power hereunder. The department shall have the same
 21 rights with respect to the payment by retail end use customers for
 22 power sold by the department as do providers of power to ~~such~~
 23 *those* customers.

24 ~~SEC. 3.—No reimbursement is required by this act pursuant to~~
 25 ~~Section 6 of Article XIII B of the California Constitution because~~
 26 ~~the only costs that may be incurred by a local agency or school~~
 27 ~~district will be incurred because this act creates a new crime or~~
 28 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
 29 ~~for a crime or infraction, within the meaning of Section 17556 of~~
 30 ~~the Government Code, or changes the definition of a crime within~~
 31 ~~the meaning of Section 6 of Article XIII B of the California~~
 32 ~~Constitution.—~~

