

AMENDED IN ASSEMBLY AUGUST 22, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN ASSEMBLY MAY 11, 2006

AMENDED IN ASSEMBLY JULY 5, 2005

AMENDED IN SENATE APRIL 12, 2005

SENATE BILL

No. 423

Introduced by Senator Simitian

(Principal coauthor: Assembly Member Levine)

(Coauthors: Assembly Members Cohn, Lieber, and Pavley)

February 17, 2005

~~An act to add Section 395.5 to the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to electricity. An act to add and repeal Section 395.5 of the Public Utilities Code, and to amend, repeal, and add Section 80110 of the Water Code, relating to electricity.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 423, as amended, Simitian. Electricity: charges: charitable organizations.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law defines an "electric service provider" as an entity that offers electrical service to customers within the service territory of an electrical corporation, excluding electrical corporations, local publicly owned electric utilities, and certain cogenerators.

Provisions of the existing Public Utilities Act restructuring the electrical services industry require that electric service providers register with the commission, and provide for the authorization of direct transactions between electric service providers and retail end-use customers.

This bill, *until January 1, 2010*, would authorize an electric service provider to provide free electric commodity service to a nonprofit charitable organization, as specified.

(2) The existing Public Utilities Act requires the commission, pursuant to electrical restructuring, to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers other than community aggregators, as defined, to acquire service from certain electricity suppliers, after a period of time to be determined by the commission, until the Department of Water Resources no longer supplies electricity under that law. Existing law requires a retail end-use customer electing to purchase electricity from a community choice aggregator to pay for certain Department of Water Resources costs and electrical corporation costs, as specified.

This bill, *until January 1, 2010*, would except from the suspension of direct transactions; electric commodity service that is donated to nonprofit charitable organizations, but would require the organization to pay for certain Department of Water Resources costs and electrical corporation costs, as specified.

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

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

- 1 SECTION 1. The Legislature finds and declares both of the
- 2 following:
- 3 (a) The donation of electric commodity service authorized by
- 4 Section 395.5 of the Public Utilities Code and Section 80110 of
- 5 the Water Code is to be strictly limited to nonprofit charitable
- 6 organizations serving the needs of the poor or elderly and shall
- 7 not authorize or be precedent for any additional direct
- 8 transactions.
- 9 (b) Nonprofit charitable organizations that receive free electric
- 10 commodity service as a donation shall incur all nonbypassable
- 11 charges and all other fees and costs, other than basic electric

1 commodity costs, that are incurred by the bundled service
2 customers of a load-serving entity.

3 SEC. 2. Section 395.5 is added to the Public Utilities Code, to
4 read:

5 395.5. (a) For purposes of this section, the following terms
6 have the following meanings:

7 (1) “Nonprofit charitable organization” means any charitable
8 organization described in Section 501(c)(3) of the federal
9 Internal Revenue Code that has ~~among its primary purposes as its~~
10 *primary purpose* serving the needs of the poor or elderly.

11 (2) “Electric commodity” means electricity used by the
12 customer or a supply of electricity available for use by the
13 customer, and does not include services associated with the
14 transmission and distribution of electricity.

15 (b) An electric service provider may provide free electric
16 commodity service to a nonprofit charitable organization.

17 (c) ~~Notwithstanding Section 80110 of the Water Code, a~~
18 nonprofit charitable organization may acquire electric
19 commodity service through a direct transaction with an electric
20 service provider if electric commodity service is donated free of
21 charge without compensation.

22 (d) A nonprofit charitable organization that acquires donated
23 electric commodity service through a direct transaction pursuant
24 to this section shall be responsible for paying all of the following:

25 (1) Those charges and surcharges that would be imposed upon
26 a retail end-use customer of a community aggregator pursuant to
27 subdivisions (d), (e), (f), and (g) of Section 366.2.

28 (2) The transmission and distribution charges of an electrical
29 corporation or a local publicly owned electric utility, as defined
30 in Section 9604.

31 (3) A nonbypassable charge imposed pursuant to Article 7
32 (commencing with Section 381), Article 8 (commencing with
33 Section 385), or Article 15 (commencing with Section 399).

34 (4) Costs imposed upon a load-serving entity pursuant to
35 Section 380.

36 (e) *This section shall remain in effect only until January 1,*
37 *2010, and as of that date is repealed, unless a later enacted*
38 *statute, that is enacted before January 1, 2010, deletes or extends*
39 *that date.*

40 SEC. 3. Section 80110 of the Water Code is amended to read:

1 80110. (a) The department shall retain title to all electricity
2 sold by it to the retail end-use customers.

3 (b) The department shall be entitled to recover, as a revenue
4 requirement, amounts and at the times necessary to enable it to
5 comply with Section 80134, and shall advise the commission as
6 the department determines to be appropriate. Those revenue
7 requirements may include any advances made to the department
8 for purposes of this division, or from the Department of Water
9 Resources Electric Power Fund, and General Fund moneys
10 expended by the department pursuant to the Governor's
11 Emergency Proclamation dated January 17, 2001.

12 (c) For purposes of this division and except as otherwise
13 provided in this section, the Public Utilities Commission's
14 authority as set forth in Section 451 of the Public Utilities Code
15 shall apply, except that any just and reasonable review under
16 Section 451 shall be conducted and determined by the
17 department. The commission may enter into an agreement with
18 the department with respect to charges under Section 451 for
19 purposes of this division, and that agreement shall have the force
20 and effect of a financing order adopted in accordance with
21 Article 5.5 (commencing with Section 840) of Chapter 4 of Part
22 1 of Division 1 of the Public Utilities Code, as determined by the
23 commission. In no case shall the commission increase the
24 electricity charges in effect on February 1, 2001, for residential
25 customers for existing baseline quantities or usage by those
26 customers of up to 130 percent of existing baseline quantities,
27 until the department has recovered the costs of electricity it has
28 procured for the electrical corporation's retail end-use customers
29 as provided in this division.

30 (d) After the passage of a period of time after the effective
31 date of this section as shall be determined by the commission, the
32 right of retail end-use customers pursuant to Article 6
33 (commencing with Section 360) of Chapter 2.3 of Part 1 of
34 Division 1 of the Public Utilities Code to acquire service from
35 other providers shall be suspended until the department no longer
36 supplies electricity pursuant to this division. A nonprofit
37 charitable organization ~~serving the needs of the poor or elderly,~~
38 *as defined in paragraph (1) of subdivision (a) of Section 395.5 of*
39 *the Public Utilities Code*, may enter into a direct transaction
40 pursuant to ~~Section 395.5 that section.~~

1 (e) The department shall have the same rights with respect to
2 the payment by retail end-use customers for electricity sold by
3 the department as do providers of electricity to those customers.

4 (f) *This section shall remain in effect only until January 1,*
5 *2010, and as of that date is repealed, unless a later enacted*
6 *statute, that is enacted before January 1, 2010, deletes or extends*
7 *that date.*

8 SEC. 4. *Section 80110 is added to the Water Code, to read:*

9 80110. (a) *The department shall retain title to all electricity*
10 *sold by it to the retail end-use customers.*

11 (b) *The department shall be entitled to recover, as a revenue*
12 *requirement, amounts and at the times necessary to enable it to*
13 *comply with Section 80134, and shall advise the commission as*
14 *the department determines to be appropriate. Those revenue*
15 *requirements may include any advances made to the department*
16 *for purposes of this division, or from the Department of Water*
17 *Resources Electric Power Fund, and General Fund moneys*
18 *expended by the department pursuant to the Governor's*
19 *Emergency Proclamation dated January 17, 2001.*

20 (c) *For purposes of this division and except as otherwise*
21 *provided in this section, the Public Utilities Commission's*
22 *authority as set forth in Section 451 of the Public Utilities Code*
23 *shall apply, except that any just and reasonable review under*
24 *Section 451 shall be conducted and determined by the*
25 *department. The commission may enter into an agreement with*
26 *the department with respect to charges under Section 451 for*
27 *purposes of this division, and that agreement shall have the force*
28 *and effect of a financing order adopted in accordance with*
29 *Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1*
30 *of Division 1 of the Public Utilities Code, as determined by the*
31 *commission. In no case shall the commission increase the*
32 *electricity charges in effect on February 1, 2001, for residential*
33 *customers for existing baseline quantities or usage by those*
34 *customers of up to 130 percent of existing baseline quantities,*
35 *until the department has recovered the costs of electricity it has*
36 *procured for the electrical corporation's retail end-use*
37 *customers as provided in this division.*

38 (d) *After the passage of a period of time after the effective date*
39 *of this section as shall be determined by the commission, the*
40 *right of retail end-use customers pursuant to Article 6*

1 *(commencing with Section 360) of Chapter 2.3 of Part 1 of*
2 *Division 1 of the Public Utilities Code to acquire service from*
3 *other providers shall be suspended until the department no*
4 *longer supplies electricity pursuant to this division.*

5 *(e) The department shall have the same rights with respect to*
6 *the payment by retail end-use customers for electricity sold by*
7 *the department as do providers of electricity to those customers.*

8 *(f) This section shall become operative on January 1, 2010.*