

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN ASSEMBLY JUNE 24, 2009

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 695

**Introduced by Senator Kehoe
(Coauthor: Senator Wright)**

February 27, 2009

An act to amend Sections 327, 382, 739.1, and 747 of, and to add Sections 365.1, 739.9, ~~and 745~~ 745, and 748 to, the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 695, as amended, Kehoe. Energy: rates.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the commission from requiring or permitting an electrical corporation to ~~employ mandatory or default time-variant pricing, as defined, for residential customers prior to January 1, 2016,~~ *but do any of the following: (A) employ mandatory or default time-variant pricing, as defined, with or without bill protection, as defined, for residential customers prior to January 1, 2013, (B) employ*

mandatory or default time-variant pricing, without bill protection, for residential customers prior to January 1, 2014, or (C) employ mandatory or default real-time pricing, without bill protection, for residential customers prior to January 1, 2020. The bill would authorize the commission to authorize an electrical corporation to offer residential customers the option of receiving service pursuant to time-variant pricing and to participate in other demand response programs. The bill would require the commission to only approve an electrical corporation's use of default time-variant pricing for residential customers, beginning January 1, ~~2016~~ 2014, if those residential customers have the option to not receive service pursuant to time-variant pricing and incur no additional charges, as specified, as a result of the exercise of that option. The bill would exempt certain customers from being subject to default time-variant pricing.

(2) Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program, and prohibits the cost to be borne solely by any single class of customer.

This bill would require the commission to establish the CARE program to provide assistance to low-income electric and gas customers with annual household incomes that are no greater than 200% of the federal poverty guideline levels, and require that the cost of the program, with respect to electrical corporations, be recovered on an equal cents-per-kilowatthour basis from all classes of customers that were subject to the surcharge that funded the CARE program on January 1, 2008. For a public utility that is both an electrical corporation and a gas corporation, the bill would require that the cost of the program be recovered on an equal cents-per-kilowatthour or per-therm basis from all classes of customers that were subject to the surcharge that funded the CARE program on January 1, 2008.

(3) Existing law relative to electrical restructuring requires that the electrical corporations and gas corporations that participate in the CARE program administer low-income energy efficiency and rate assistance programs described in specified statutes, and undertake certain actions in administering specified energy efficiency and weatherization programs.

This bill would require that electrical corporations, in administering the specified energy efficiency and weatherization programs, ~~to~~ target energy efficiency and solar programs to upper-tier and multifamily customers in a manner that will result in long-term permanent reductions

in electricity usage at the dwelling units and develop programs that specifically target nonprofit affordable housing providers, including programs that promote weatherization of existing dwelling units and replacement of inefficient appliances. The bill would require the commission, by not later than December 31, 2020, to ensure that all eligible low-income electricity and gas customers are given the opportunity to participate in low-income energy efficiency programs, including customers occupying apartment houses or similar multiunit residential structures, and would require the commission and electrical corporations and gas corporations to expend all reasonable efforts to coordinate ratepayer-funded programs with other energy conservation and efficiency programs and to obtain additional federal funding to support actions undertaken pursuant to this requirement.

(4) Existing law relative to electrical restructuring requires the commission to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers.

Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates and requires the commission, in establishing baseline rates, to avoid excessive rate increases for residential customers.

Existing law, enacted during the energy crisis of 2000–01, authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end-use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department’s acquisition costs and to recover those costs through the issuance of bonds to be repaid by ratepayers. That law provides that the department is entitled to recover certain expenses resulting from its purchases and sales of electricity and authorizes the commission to enter into an agreement with the department relative to cost recovery. That law prohibits the commission from increasing the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities, until the department has recovered the costs of electricity it procured for electrical corporation retail end-use customers. That law also suspends the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction

customer, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law.

This bill would delete the prohibition that the commission not increase the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities. The bill would authorize the commission to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. This authorization would be subject to the limitation that rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, not exceed 90% of the system average rate, as defined. The bill would authorize the commission to increase the rates for participants in the CARE program, subject to certain limitations. The bill would delete the existing suspension of direct transactions in the Water Code that was adopted during the energy crisis of 2000–01, and would instead require the commission to authorize direct transactions subject to a ~~phase-in schedule~~ *reopening schedule that commences immediately and will phase in over a period* of not less than 3 years and not more than 5 years, and subject to *an annual* maximum allowable total ~~kilowatthours~~ *annual kilowatthour* limit established, as specified, for each electrical corporation. The bill would continue the suspension of direct transactions except as expressly authorized, until the Legislature, by statute, repeals the suspension or otherwise authorizes direct transactions.

(5) Existing law requires the commission to prepare and submit to the Governor and the Legislature a written report on an annual basis before February 1 of each year on the costs of programs and activities conducted by an electrical corporation or gas corporation that has more than a specified number of customers in California.

This bill would change the reporting date to April 1 of each year ~~and also require the report to contain the commission's~~. *The bill would require that by May 1, 2010, and by May 1 of each year thereafter, the commission also report to the Governor and Legislature with its recommendations for actions that can be undertaken during the upcoming year to limit utility cost and rate increases, consistent with the state's energy and environmental goals, including the state's goals for reducing emissions of greenhouse gases. The bill would require the*

commission to annually require electrical and gas corporations to study and report to the commission on measures that they recommend be undertaken to limit ~~cost~~ *costs and rate* increases.

(6) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(7) 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.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 327 of the Public Utilities Code is
2 amended to read:

3 327. (a) The electrical corporations and gas corporations that
4 participate in the California Alternate Rates for Energy (CARE)
5 program, as established pursuant to Section 739.1, shall administer
6 low-income energy efficiency and rate assistance programs
7 described in Sections 382, 739.1, 739.2, and 2790, subject to
8 commission oversight. In administering the programs described
9 in Section 2790, the electrical corporations and gas corporations,
10 to the extent practicable, shall do all of the following:

11 (1) Continue to leverage funds collected to fund the program
12 described in subdivision (a) with funds available from state and
13 federal sources.

14 (2) Work with state and local agencies, community-based
15 organizations, and other entities to ensure efficient and effective
16 delivery of programs.

17 (3) Encourage local employment and job skill development.

18 (4) Maximize the participation of eligible participants.

1 (5) Work to reduce consumers electric and gas consumption,
2 and bills.

3 (6) For electrical corporations, target energy efficiency and solar
4 programs to upper-tier and multifamily customers in a manner that
5 will result in long-term permanent reductions in electricity usage
6 at the dwelling units, and develop programs that specifically target
7 nonprofit affordable housing providers, including programs that
8 promote weatherization of existing dwelling units and replacement
9 of inefficient appliances.

10 (7) For electrical corporations and for public utilities that are
11 both electrical corporations and gas corporations, allocate the costs
12 of the CARE program on an equal cents per kilowatthour or equal
13 cents per therm basis to all classes of customers that were subject
14 to the surcharge that funded the program on January 1, 2008.

15 (b) If the commission requires low-income energy efficiency
16 programs to be subject to competitive bidding, the electrical and
17 gas corporations described in subdivision (a), as part of their bid
18 evaluation criteria, shall consider both cost-of-service criteria and
19 quality-of-service criteria. The bidding criteria, at a minimum,
20 shall recognize all of the following factors:

21 (1) The bidder's experience in delivering programs and services,
22 including, but not limited to, weatherization, appliance repair and
23 maintenance, energy education, outreach and enrollment services,
24 and bill payment assistance programs to targeted communities.

25 (2) The bidder's knowledge of the targeted communities.

26 (3) The bidder's ability to reach targeted communities.

27 (4) The bidder's ability to utilize and employ people from the
28 local area.

29 (5) The bidder's general contractor's license and evidence of
30 good standing with the Contractors' State License Board.

31 (6) The bidder's performance quality as verified by the funding
32 source.

33 (7) The bidder's financial stability.

34 (8) The bidder's ability to provide local job training.

35 (9) Other attributes that benefit local communities.

36 (c) Notwithstanding subdivision (b), the commission may
37 modify the bid criteria based upon public input from a variety of
38 sources, including representatives from low-income communities
39 and the program administrators identified in subdivision (b), in

1 order to ensure the effective and efficient delivery of high quality
2 low-income energy efficiency programs.

3 SEC. 2. Section 365.1 is added to the Public Utilities Code, to
4 read:

5 365.1. (a) Except as expressly authorized by this section, and
6 subject to the limitations in subdivisions (b) and (c), the right of
7 retail end-use customers pursuant to this chapter to acquire service
8 from other providers is suspended until the Legislature, by statute,
9 lifts the suspension or otherwise authorizes direct transactions. For
10 purposes of this section, “other provider” means any person,
11 corporation, or other entity that is authorized to provide electric
12 service within the service territory of an electrical corporation
13 pursuant to this chapter, and includes an aggregator, broker, or
14 marketer, *as defined in Section 331*, and an electric service
15 provider, *as defined in Section 218.3*. “Other provider” does not
16 include a community choice aggregator, *as defined in Section*
17 *331.1*, and the limitations in this section do not apply to the sale
18 of electricity by “other providers” to a community choice
19 aggregator for resale to community choice aggregation electricity
20 consumers pursuant to Section 366.2.

21 (b) The commission shall allow individual retail nonresidential
22 end-use customers to acquire electric service from other providers
23 in each electrical corporation’s distribution service territory, up to
24 a maximum allowable total kilowatthours annual limit. The
25 maximum allowable annual limit shall be established by the
26 commission for each electrical corporation at the maximum total
27 kilowatthours supplied by all other providers to distribution
28 customers of that electrical corporation during ~~a~~ *any* sequential
29 12-month period between April 1, 1998, and the effective date of
30 this section. Within six months of the effective date of this section,
31 or by July 1, 2010, whichever is sooner, the commission shall
32 adopt and implement a ~~phase-in schedule~~ *reopening schedule that*
33 *commences immediately and will phase in the allowable amount*
34 *of increased kilowatthours over a period* of not less than three
35 years, and not more than five years, ~~to raise~~ *raising* the allowable
36 limit of kilowatthours supplied by other providers in each electrical
37 corporation’s distribution service territory from the number of
38 kilowatthours provided by other providers as of the effective date
39 of this section, to the maximum allowable annual limit for that
40 electrical corporation’s distribution service territory. The

1 commission shall review and, if appropriate, modify its currently
2 effective rules governing direct transactions, but that review shall
3 not delay the start of the phase-in schedule.

4 (c) Once the commission has authorized additional direct
5 transactions pursuant to subdivision (b), it shall do both of the
6 following:

7 (1) Ensure that other providers are subject to the same
8 requirements that are applicable to the state's three largest electrical
9 corporations ~~pursuant to the resource adequacy requirements~~
10 ~~established by the commission pursuant to *under any programs*~~
11 ~~or rules adopted by the commission to implement the resource~~
12 ~~adequacy provisions of Section 380, the renewables portfolio~~
13 ~~standard adopted by the commission pursuant to provisions of~~
14 Article 16 (commencing with Section 399.11), and the requirements
15 for the electricity sector adopted by the State Air Resources Board
16 pursuant to the California Global Warming Solutions Act of 2006
17 (Division 25.5 (commencing with Section 38500) of the Health
18 and Safety Code). This requirement applies notwithstanding any
19 prior decision of the commission to the contrary.

20 (2) (A) Ensure that, in the event that the commission authorizes,
21 in the situation of a contract with a third party, or orders, in the
22 situation of utility-owned generation, an electrical corporation to
23 obtain generation resources that the commission determines are
24 needed to meet system or local area reliability needs for the benefit
25 of all customers in the electrical corporation's distribution service
26 territory, the net capacity costs of those generation resources are
27 allocated on a fully nonbypassable basis consistent with departing
28 load provisions as determined by the commission, to all of the
29 following:

30 (i) Bundled service customers of the electrical corporation.

31 (ii) Customers that purchase electricity through a direct
32 transaction with other providers.

33 (iii) Customers of community choice aggregators.

34 (B) The resource adequacy benefits of ~~new~~ generation resources
35 acquired by an electrical corporation pursuant to subparagraph (A)
36 shall be allocated to all customers who pay their net capacity costs.
37 Net capacity costs shall be determined by subtracting the energy
38 and ancillary services value of the resource from the total costs
39 paid by the electrical corporation pursuant to a contract with a
40 third party or the annual revenue requirement for the resource if

1 the electrical corporation directly owns the resource. An energy
2 auction shall not be required as a condition for applying this
3 allocation, but may be allowed as a means to establish the energy
4 and ancillary services value of the resource for purposes of
5 determining the net costs of capacity to be recovered from
6 customers pursuant to this paragraph, and the allocation of the net
7 capacity costs of contracts with third parties shall be allowed for
8 the terms of those contracts.

9 (C) It is the intent of the Legislature, in enacting this paragraph,
10 to provide additional guidance to the commission with respect to
11 the implementation of subdivision (g) of Section 380, as well as
12 to ensure that the customers to whom the net costs and benefits of
13 capacity are allocated are not required to pay for the cost of
14 electricity they do not consume.

15 (d) (1) If the commission approves a centralized resource
16 adequacy mechanism pursuant to subdivisions (h) and (i) of Section
17 380, upon the implementation of the centralized resource adequacy
18 mechanism the requirements of paragraph (2) of subdivision (c)
19 shall be suspended. If the commission later orders that electrical
20 corporations cease procuring capacity through a centralized
21 resource adequacy mechanism, the requirements of paragraph (2)
22 of subdivision (c) shall again apply.

23 (2) If the use of a centralized resource adequacy mechanism is
24 authorized by the commission and has been implemented as set
25 forth in paragraph (1), the net capacity costs of generation resources
26 that the commission determines are required to meet urgent system
27 or urgent local grid reliability needs, and that the commission
28 authorizes to be procured outside of the Section 380 or Section
29 454.5 processes, shall be recovered according to the provisions of
30 paragraph (2) of subdivision (c).

31 (3) Nothing in this subdivision supplants the resource adequacy
32 requirements of Section 380 or the resource procurement
33 procedures established in Section 454.5.

34 (e) The commission may report to the Legislature on the efficacy
35 of authorizing individual retail end-use residential customers to
36 enter into direct transactions, including appropriate consumer
37 protections.

38 SEC. 3. Section 382 of the Public Utilities Code is amended
39 to read:

1 382. (a) Programs provided to low-income electricity
2 customers, including, but not limited to, targeted energy-efficiency
3 services and the California Alternate Rates for Energy program
4 shall be funded at not less than 1996 authorized levels based on
5 an assessment of customer need.

6 (b) In order to meet legitimate needs of electric and gas
7 customers who are unable to pay their electric and gas bills and
8 who satisfy eligibility criteria for assistance, recognizing that
9 electricity is a basic necessity, and that all residents of the state
10 should be able to afford essential electricity and gas supplies, the
11 commission shall ensure that low-income ratepayers are not
12 jeopardized or overburdened by monthly energy expenditures.
13 Energy expenditure may be reduced through the establishment of
14 different rates for low-income ratepayers, different levels of rate
15 assistance, and energy efficiency programs.

16 (c) Nothing in this section shall be construed to prohibit electric
17 and gas providers from offering any special rate or program for
18 low-income ratepayers that is not specifically required in this
19 section.

20 (d) Beginning in 2002, an assessment of the needs of
21 low-income electricity and gas ratepayers shall be conducted
22 periodically by the commission with the assistance of the
23 Low-Income Oversight Board. The assessment shall evaluate
24 low-income program implementation and the effectiveness of
25 weatherization services and energy efficiency measures in
26 low-income households. The assessment shall consider whether
27 existing programs adequately address low-income electricity and
28 gas customers' energy expenditures, hardship, language needs,
29 and economic burdens.

30 (e) The commission shall, by not later than December 31, 2020,
31 ensure that all eligible low-income electricity and gas customers
32 are given the opportunity to participate in low-income energy
33 efficiency programs, including customers occupying apartments
34 or similar multiunit residential structures. The commission and
35 electrical corporations and gas corporations shall make all
36 reasonable efforts to coordinate ratepayer-funded programs with
37 other energy conservation and efficiency programs and to obtain
38 additional federal funding to support actions undertaken pursuant
39 to this subdivision.

1 These programs shall be designed to provide long-term
2 reductions in energy consumption at the dwelling unit based on
3 an audit or assessment of the dwelling unit, and may include
4 improved insulation, energy efficient appliances, measures that
5 utilize solar energy, and other improvements to the physical
6 structure.

7 (f) The commission shall allocate funds necessary to meet the
8 low-income objectives in this section.

9 SEC. 4. Section 739.1 of the Public Utilities Code is amended
10 to read:

11 739.1. (a) As used in this section, the following terms have
12 the following meanings:

13 (1) “Baseline quantity” has the same meaning as defined in
14 Section 739.

15 (2) “California Solar Initiative” means the program providing
16 ratepayer funded incentives for eligible solar energy systems
17 adopted by the commission in Decision 05-12-044 and Decision
18 06-01-024, as modified by Article 1 (commencing with Section
19 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with
20 Section 25780) of Division 15 of the Public Resources Code.

21 (3) “CalWORKs program” means the program established
22 pursuant to the California Work Opportunity and Responsibility
23 to Kids Act (Chapter 2 (commencing with Section 11200) of Part
24 3 of Division 9 of the Welfare and Institutions Code).

25 (4) “Public goods charge” means the nonbypassable separate
26 rate component imposed pursuant to Article 7 (commencing with
27 Section 381) of Chapter 2.3 and the nonbypassable system benefits
28 charge imposed pursuant to the Reliable Electric Service
29 Investments Act (Article 15 (commencing with Section 399) of
30 Chapter 2.3).

31 (b) (1) The commission shall establish a program of assistance
32 to low-income electric and gas customers with annual household
33 incomes that are no greater than 200 percent of the federal poverty
34 guideline levels, the cost of which shall not be borne solely by any
35 single class of customer. The program shall be referred to as the
36 California Alternate Rates for Energy or CARE program. The
37 commission shall ensure that the level of discount for low-income
38 electric and gas customers correctly reflects the level of need.

39 (2) The commission may, subject to the limitation in paragraph
40 (4), increase the rates in effect for CARE program participants for

1 electricity usage up to 130 percent of baseline quantities by the
2 annual percentage increase in benefits under the CalWORKs
3 program as authorized by the Legislature for the fiscal year in
4 which the rate increase would take effect, but not to exceed 3
5 percent per year.

6 (3) Beginning January 1, 2019, the commission may, subject
7 to the limitation in paragraph (4), establish rates for CARE program
8 participants pursuant to this section and Sections 739 and 739.9,
9 subject to both of the following:

10 (A) The requirements of subdivision (b) of Section 382 that the
11 commission ensure that low-income ratepayers are not jeopardized
12 or overburdened by monthly energy expenditures.

13 (B) The requirement that the level of the discount for
14 low-income electricity and gas ratepayers correctly reflects the
15 level of need as determined by the needs assessment conducted
16 pursuant to subdivision (d) of Section 382.

17 (4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80
18 percent of the corresponding tier 1, tier 2, and tier 3 rates charged
19 to residential customers not participating in the CARE program,
20 excluding any Department of Water Resources bond charge
21 imposed pursuant to Division 27 (commencing with Section 80000)
22 of the Water Code, the CARE surcharge portion of the public
23 goods charge, any charge imposed pursuant to the California Solar
24 Initiative, and any charge imposed to fund any other program that
25 exempts CARE participants from paying the charge.

26 (5) Rates charged to CARE program participants shall not have
27 more than three tiers. An electrical corporation that does not have
28 a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order
29 to moderate the impact on program participants whose usage
30 exceeds 130 percent of baseline quantities, shall be phased in to
31 80 percent of the corresponding rates charged to residential
32 customers not participating in the CARE program, excluding any
33 Department of Water Resources bond charge imposed pursuant to
34 Division 27 (commencing with Section 80000) of the Water Code,
35 the CARE surcharge portion of the public goods charge, any charge
36 imposed pursuant to the California Solar Initiative, and any other
37 charge imposed to fund a program that exempts CARE participants
38 from paying the charge. For an electrical corporation that does not
39 have a tier 3 CARE rate that introduces a tier 3 CARE rate, the
40 initial rate shall be no more than 150 percent of the CARE baseline

1 rate. Any additional revenues collected by an electrical corporation
2 resulting from the adoption of a tier 3 CARE rate shall, until the
3 utility's next periodic general rate case review of cost allocation
4 and rate design, be credited to reduce rates of residential ratepayers
5 not participating in the CARE program with usage above 130
6 percent of baseline quantities.

7 (c) The commission shall work with the public utility electrical
8 and gas corporations to establish penetration goals. The
9 commission shall authorize recovery of all administrative costs
10 associated with the implementation of the CARE program that the
11 commission determines to be reasonable, through a balancing
12 account mechanism. Administrative costs shall include, but are
13 not limited to, outreach, marketing, regulatory compliance,
14 certification and verification, billing, measurement and evaluation,
15 and capital improvements and upgrades to communications and
16 processing equipment.

17 (d) The commission shall examine methods to improve CARE
18 enrollment and participation. This examination shall include, but
19 need not be limited to, comparing information from CARE and
20 the Universal Lifeline Telephone Service (ULTS) to determine
21 the most effective means of utilizing that information to increase
22 CARE enrollment, automatic enrollment of ULTS customers who
23 are eligible for the CARE program, customer privacy issues, and
24 alternative mechanisms for outreach to potential enrollees. The
25 commission shall ensure that a customer consents prior to
26 enrollment. The commission shall consult with interested parties,
27 including ULTS providers, to develop the best methods of
28 informing ULTS customers about other available low-income
29 programs, as well as the best mechanism for telephone providers
30 to recover reasonable costs incurred pursuant to this section.

31 (e) (1) The commission shall improve the CARE application
32 process by cooperating with other entities and representatives of
33 California government, including the California Health and Human
34 Services Agency and the Secretary of California Health and Human
35 Services, to ensure that all gas and electric customers eligible for
36 public assistance programs in California that reside within the
37 service territory of an electrical corporation or gas corporation,
38 are enrolled in the CARE program. To the extent practicable, the
39 commission shall develop a CARE application process using the
40 existing ULTS application process as a model. The commission

1 shall work with public utility electrical and gas corporations and
2 the Low-Income Oversight Board established in Section 382.1 to
3 meet the low-income objectives in this section.

4 (2) The commission shall ensure that an electrical corporation
5 or gas corporation with a commission-approved program to provide
6 discounts based upon economic need in addition to the CARE
7 program, including a Family Electric Rate Assistance program,
8 utilize a single application form, to enable an applicant to
9 alternatively apply for any assistance program for which the
10 applicant may be eligible. It is the intent of the Legislature to allow
11 applicants under one program, that may not be eligible under that
12 program, but that may be eligible under an alternative assistance
13 program based upon economic need, to complete a single
14 application for any commission-approved assistance program
15 offered by the public utility.

16 (f) The commission's program of assistance to low-income
17 electric and gas customers shall, as soon as practicable, include
18 nonprofit group living facilities specified by the commission, if
19 the commission finds that the residents in these facilities
20 substantially meet the commission's low-income eligibility
21 requirements and there is a feasible process for certifying that the
22 assistance shall be used for the direct benefit, such as improved
23 quality of care or improved food service, of the low-income
24 residents in the facilities. The commission shall authorize utilities
25 to offer discounts to eligible facilities licensed or permitted by
26 appropriate state or local agencies, and to facilities, including
27 women's shelters, hospices, and homeless shelters, that may not
28 have a license or permit but provide other proof satisfactory to the
29 utility that they are eligible to participate in the program.

30 (g) It is the intent of the Legislature that the commission ensure
31 CARE program participants are afforded the lowest possible
32 electric and gas rates and, to the extent possible, are exempt from
33 additional surcharges attributable to the energy crisis of 2000–01.

34 SEC. 5. Section 739.9 is added to the Public Utilities Code, to
35 read:

36 739.9. (a) The commission may, subject to the limitation in
37 subdivision (b), increase the rates charged residential customers
38 for electricity usage up to 130 percent of the baseline quantities,
39 as defined in Section 739, by the annual percentage change in the
40 Consumer Price Index from the prior year plus 1 percent, but not

1 less than 3 percent and not more than 5 percent per year. For
2 purposes of this subdivision, the annual percentage change in the
3 Consumer Price Index shall be calculated using the same formula
4 that was used to determine the annual Social Security Cost of
5 Living Adjustment on January 1, 2008. This subdivision shall
6 become inoperative on January 1, 2019, unless a later enacted
7 statute deletes or extends that date.

8 (b) The rates charged residential customers for electricity usage
9 up to the baseline quantities, including any customer charge
10 revenues, shall not exceed 90 percent of the system average rate
11 prior to January 1, 2019, and may not exceed 92.5 percent after
12 that date. For purposes of this subdivision, the system average rate
13 shall be determined by dividing the electrical corporation's total
14 revenue requirements for bundled service customers by the adopted
15 forecast of total bundled service sales.

16 (c) This section does not require the commission to increase
17 any residential rate or place any restriction upon, or otherwise
18 limit, the authority of the commission to reduce any residential
19 rate.

20 SEC. 6. Section 745 is added to the Public Utilities Code, to
21 read:

22 745. (a) For purposes of this section, ~~“time-variant the~~
23 *following terms have the following meanings:*

24 (1) *“Bill protection” means that customers on mandatory or*
25 *default time-variant pricing will be guaranteed that the total*
26 *amount paid for electric service shall not exceed the amount that*
27 *would have been due under the customer's previous rate schedule.*

28 (2) *“Time-variant pricing” includes time-of-use rates, critical*
29 *peak pricing, and real-time pricing, but does not include programs*
30 *that provide customers with discounts from standard tariff rates*
31 *as an incentive to reduce consumption at certain times, including*
32 *peak time rebates.*

33 (b) The commission shall not require or permit an electrical
34 corporation to ~~employ mandatory or default time-variant pricing~~
35 ~~for residential customers prior to January 1, 2016.~~ *do any of the*
36 *following:*

37 (1) *Employ mandatory or default time-variant pricing, with or*
38 *without bill protection, for any residential customer prior to*
39 *January 1, 2013.*

1 (2) *Employ mandatory or default time-variant pricing, without*
2 *bill protection, for residential customers prior to January 1, 2014.*

3 (3) *Employ mandatory or default real-time pricing, without bill*
4 *protection, for residential customers prior to January 1, 2020.*

5 (c) The commission may, at any time, authorize an electrical
6 corporation to offer residential customers the option of receiving
7 service pursuant to time-variant pricing and to participate in other
8 demand response programs.

9 (d) On and after January 1, ~~2016~~ 2014, the commission shall
10 only approve an electrical corporation's use of ~~time-variant pricing~~
11 ~~if residential~~ *default time-variant pricing in a manner consistent*
12 *with the other provisions of this part, if all of the following*
13 *conditions have been met:*

14 (1) *Residential customers have the option to not receive service*
15 *pursuant to time-variant pricing and incur no additional charges*
16 *as a result of the exercise of that option. Prohibited charges include,*
17 *but are not limited to, administrative fees for switching away from*
18 *time-variant pricing, hedging premiums that exceed any actual*
19 *costs of hedging, and more than a proportional share of any*
20 *discounts or other incentives paid to customers solely to increase*
21 *participation in time-variant pricing. This prohibition on additional*
22 *charges is not intended to ensure that a customer will necessarily*
23 *experience a lower total bill as a result of ~~switching rate schedules~~*
24 *the exercise of the option to not receive service pursuant to a*
25 *time-variant rate schedule.*

26 (2) *Residential customers receiving a medical baseline*
27 *allowance pursuant to subdivision (c) of Section 739 and customers*
28 *requesting third-party notification pursuant to subdivision (c) of*
29 *Section 779.1, shall not be subject to mandatory or default*
30 *time-variant pricing.*

31 (3) *A residential customer shall not be subject to a default*
32 *time-variant rate schedule without bill protection unless that*
33 *residential customer has been provided with not less than one year*
34 *of interval usage data from an advanced meter and associated*
35 *customer education and, following the passage of this period, is*
36 *provided with not less than one year of bill protection during which*
37 *the total amount paid by the residential customer for electric*
38 *service shall not exceed the amount that would have been payable*
39 *by the residential customer under that customer's previous rate*
40 *schedule.*

1 SEC. 7. Section 747 of the Public Utilities Code is amended
2 to read:

3 747. (a) It is the intent of the Legislature that the commission
4 reduce rates for electricity and natural gas to the lowest amount
5 possible.

6 (b) ~~(1)~~—The commission shall prepare a written report on the
7 costs of programs and activities conducted by each electrical
8 corporation and gas corporation that is subject to this section,
9 including activities conducted to comply with their duty to serve.
10 The report shall be completed on an annual basis before April 1
11 of each year, and shall identify, clearly and concisely, all of the
12 following:

13 ~~(A)~~

14 (1) Each program mandated by statute and its annual cost to
15 ratepayers.

16 ~~(B)~~

17 (2) Each program mandated by the commission and its annual
18 cost to ratepayers.

19 ~~(C)~~

20 (3) Energy purchase contract costs and bond-related costs
21 incurred pursuant to Division 27 (commencing with Section 80000)
22 of the Water Code.

23 ~~(D)~~

24 (4) All other aggregated categories of costs currently recovered
25 in retail rates as determined by the commission.

26 ~~(2) The report shall also contain the commission's
27 recommendations for actions that can be undertaken during the
28 upcoming year to limit utility cost increases, consistent with the
29 state's energy and environmental goals, including the state's goals
30 for reducing emissions of greenhouse gases.~~

31 ~~(3) In preparing the report, the commission shall annually require
32 electrical and gas corporations to study and report to the
33 commission on measures that they recommend be undertaken to
34 limit cost increases.~~

35 (c) As used in this section, the reporting requirements apply to
36 electrical corporations with at least 1,000,000 retail customers in
37 California and gas corporations with at least 500,000 retail
38 customers in California.

39 (d) The report required by subdivision (b) shall be submitted to
40 the Governor and the Legislature no later than April 1 of each year.

1 (e) The commission shall post the report required by subdivision
2 (b) in a conspicuous area of its Internet Web site.

3 *SEC. 8. Section 748 is added to the Public Utilities Code, to*
4 *read:*

5 *748. (a) The commission, by May 1, 2010, and by each May*
6 *1 thereafter, shall prepare and submit a written report, separate*
7 *from and in addition to the report required by Section 747, to the*
8 *Governor and Legislature that contains the commission's*
9 *recommendations for actions that can be undertaken during the*
10 *succeeding 12 months to limit utility cost and rate increases,*
11 *consistent with the state's energy and environmental goals,*
12 *including goals for reducing emissions of greenhouse gases.*

13 *(b) In preparing the report required by subdivision (a), the*
14 *commission shall require electrical corporations with 1,000,000*
15 *or more retail customers in California, and gas corporations with*
16 *500,000 or more retail customers in California, to study and report*
17 *on measures the corporation recommends be undertaken to limit*
18 *costs and rate increases.*

19 *(c) The commission shall post the report required by subdivision*
20 *(a) in a conspicuous area of its Internet Web site.*

21 ~~SEC. 8.~~

22 *SEC. 9. Section 80110 of the Water Code is amended to read:*

23 *80110. (a) The department shall retain title to all electricity*
24 *sold by it to the retail end-use customers. The department shall be*
25 *entitled to recover, as a revenue requirement, amounts and at the*
26 *times necessary to enable it to comply with Section 80134, and*
27 *shall advise the commission as the department determines to be*
28 *appropriate.*

29 *(b) The revenue requirements may also include any advances*
30 *made to the department hereunder or hereafter for purposes of this*
31 *division, or from the Department of Water Resources Electric*
32 *Power Fund, and General Fund moneys expended by the*
33 *department pursuant to the Governor's Emergency Proclamation*
34 *dated January 17, 2001.*

35 *(c) (1) For the purposes of this division and except as otherwise*
36 *provided in this section, the Public Utility Commission's authority*
37 *as set forth in Section 451 of the Public Utilities Code shall apply,*
38 *except any just and reasonable review under Section 451 shall be*
39 *conducted and determined by the department. Prior to the execution*
40 *of any modification of any contract for the purchase of electricity*

1 by the department pursuant to this division, on or after the effective
2 date of this section, the department or the commission, as
3 applicable, shall do the following:

4 (A) The department shall notify the public of its intent to modify
5 a contract and the opportunity to comment on the proposed
6 modification.

7 (B) At least 21 days after providing public notice, the department
8 shall make a determination as to whether the proposed
9 modifications are just and reasonable. The determination shall
10 include responses to any public comments.

11 (C) No later than 70 days before the date of execution of the
12 contract modification, the department shall provide a written report
13 to the commission setting forth the justification for the
14 determination that the proposed modification is just and reasonable,
15 including documents, analysis, response to public comments, and
16 other information relating to the determination.

17 (D) Within 60 days of the date of receipt of the department's
18 written report, the commission shall review the report and make
19 public its comments. If the commission in its comments
20 recommends against the proposed modification, the department
21 shall not execute the proposed contract modification.

22 (2) This subdivision does not apply to the modification of a
23 contract modified to settle litigation to which the commission is
24 a party.

25 (3) This subdivision does not apply to the modification of a
26 contract for the purchase of electricity that is generated from a
27 facility owned by a public agency if the contract requires the public
28 agency to sell electricity to the department at or below the public
29 agency's cost of that electricity.

30 (4) This subdivision does not apply to the modification of a
31 contract to address issues relating to billing, scheduling, delivery
32 of electricity, and related contract matters arising out of the
33 implementation by the Independent System Operator of its market
34 redesign and technology upgrade program.

35 (5) (A) For purposes of this subdivision, the department
36 proposes to "modify" a contract if there is any material change
37 proposed in the terms of the contract.

38 (B) A change to a contract is not material if it is only
39 administrative in nature or the change in ratepayer value results
40 in ratepayer savings, not to exceed twenty-five million dollars

1 (\$25,000,000) per year. For the purpose of making a determination
2 that a change is only administrative in nature or results in ratepayer
3 savings of twenty-five million dollars (\$25,000,000) or less per
4 year, the executive director of the commission shall concur in
5 writing with each of those determinations by the department.

6 (d) The commission may enter into an agreement with the
7 department with respect to charges under Section 451 for purposes
8 of this division, and that agreement shall have the force and effect
9 of a financing order adopted in accordance with Article 5.5
10 (commencing with Section 840) of Chapter 4 of Part 1 of Division
11 1 of the Public Utilities Code, as determined by the commission.

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

15 ~~SEC. 9.~~

16 *SEC. 10.* No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 ~~SEC. 10.~~

26 *SEC. 11.* This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety within
28 the meaning of Article IV of the Constitution and shall go into
29 immediate effect. The facts constituting the necessity are:

30 In order to avert a rate crisis involving unfair and unreasonable
31 rates being charged for electric and gas service by electrical and
32 gas corporations, it is necessary that this act take effect
33 immediately.

34

35 _____

36 **CORRECTIONS:**

37 **Text—Page 15.**

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