

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1755**

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**Introduced by Assembly Member Perea**

February 17, 2012

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An act to amend Sections 739.1 and 739.9 of, *and to add Section 739.11 to*, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1755, as amended, Perea. Electricity: rates.

~~Under~~

(1) *Under* existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical 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. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary to supply 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. Existing law requires the commission, in establishing the baseline rates, to avoid excessive rate increases for residential customers. Existing law requires the commission to establish a program of assistance to specified low-income electric and gas customers, referred to as the California Alternate Rates for Energy (CARE) program.

Existing law revises certain prohibitions upon raising residential electrical rates adopted during the energy crisis of 2000–01, to 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. Existing law additionally authorizes the commission to increase the rates in effect for CARE program participants for electricity usage up to 130% of baseline quantities by the annual percentage increase in benefits under the CalWORKs program, as defined, not to exceed 3%, and subject to the limitation that the CARE rates not exceed 80% of the corresponding rates charged to residential customers not participating in the CARE program.

This bill would authorize the commission to approve a fixed per-customer charge not based upon usage that applies to all *residential* customers of an electrical corporation, including CARE program participants, to recover fixed costs of providing service, if the commission finds that ~~such a~~ *the* charge is just and reasonable and is necessary to provide rate relief to upper tier residential customers of the electrical corporation. *The bill would require the commission to ensure that electricity rates are affordable for qualified low-income ratepayers and would require electrical corporations to offer discounts or other ratepayer subsidies to ensure safe, reliable, and affordable electricity to these customers so that these customers are not at risk of service disconnections that would cause them to sacrifice electricity service.*

*(2) 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 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.*

*(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: ~~no~~-yes.

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

1 SECTION 1. Section 739.1 of the Public Utilities Code is  
2 amended to read:

3 739.1. (a) As used in this section, the following terms have  
4 the following meanings:

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

7 (2) “California Solar Initiative” means the program providing  
8 ratepayer funded incentives for eligible solar energy systems  
9 adopted by the commission in Decision 05-12-044 and Decision  
10 06-01-024, as modified by Article 1 (commencing with Section  
11 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with  
12 Section 25780) of Division 15 of the Public Resources Code.

13 (3) “CalWORKs program” means the program established  
14 pursuant to the California Work Opportunity and Responsibility  
15 to Kids Act (Chapter 2 (commencing with Section 11200) of Part  
16 3 of Division 9 of the Welfare and Institutions Code).

17 (4) “Public goods charge” means the nonbypassable separate  
18 rate component imposed pursuant to Article 7 (commencing with  
19 Section 381) of Chapter 2.3 and the nonbypassable system benefits  
20 charge imposed pursuant to the Reliable Electric Service  
21 Investments Act (Article 15 (commencing with Section 399) of  
22 Chapter 2.3).

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

31 (2) The commission may, subject to the limitation in paragraph  
32 (4) and the exception in paragraph (6), increase the rates in effect  
33 for CARE program participants for electricity usage up to 130  
34 percent of baseline quantities by the annual percentage increase  
35 in benefits under the CalWORKs program as authorized by the  
36 Legislature for the fiscal year in which the rate increase would  
37 take effect, but not to exceed 3 percent per year.

1 (3) Beginning January 1, 2019, the commission may, subject  
2 to the limitation in paragraph (4), establish rates for CARE program  
3 participants pursuant to this section and Sections 739 and 739.9,  
4 subject to both of the following:  
5 (A) The requirements of subdivision (b) of Section 382 that the  
6 commission ensure that low-income ratepayers are not jeopardized  
7 or overburdened by monthly energy expenditures.  
8 (B) The requirement that the level of the discount for  
9 low-income electricity and gas ratepayers correctly reflects the  
10 level of need as determined by the needs assessment conducted  
11 pursuant to subdivision (d) of Section 382.  
12 (4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80  
13 percent of the corresponding tier 1, tier 2, and tier 3 rates charged  
14 to residential customers not participating in the CARE program,  
15 excluding any Department of Water Resources bond charge  
16 imposed pursuant to Division 27 (commencing with Section 80000)  
17 of the Water Code, the CARE surcharge portion of the public  
18 goods charge, any charge imposed pursuant to the California Solar  
19 Initiative, and any charge imposed to fund any other program that  
20 exempts CARE participants from paying the charge.  
21 (5) Rates charged to CARE program participants shall not have  
22 more than three tiers. An electrical corporation that does not have  
23 a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order  
24 to moderate the impact on program participants whose usage  
25 exceeds 130 percent of baseline quantities, shall be phased in to  
26 80 percent of the corresponding rates charged to residential  
27 customers not participating in the CARE program, excluding any  
28 Department of Water Resources bond charge imposed pursuant to  
29 Division 27 (commencing with Section 80000) of the Water Code,  
30 the CARE surcharge portion of the public goods charge, any charge  
31 imposed pursuant to the California Solar Initiative, and any other  
32 charge imposed to fund a program that exempts CARE participants  
33 from paying the charge. For an electrical corporation that does not  
34 have a tier 3 CARE rate that introduces a tier 3 CARE rate, the  
35 initial rate shall be no more than 150 percent of the CARE baseline  
36 rate. Any additional revenues collected by an electrical corporation  
37 resulting from the adoption of a tier 3 CARE rate shall, until the  
38 utility's next periodic general rate case review of cost allocation  
39 and rate design, be credited to reduce rates of residential ratepayers

1 not participating in the CARE program with usage above 130  
2 percent of baseline quantities.

3 (6) The commission may approve a fixed per-customer charge  
4 not based ~~upon~~ *on* usage that applies to all *residential* customers  
5 of an electrical corporation, including CARE program participants,  
6 to recover fixed costs of providing service, if the commission finds  
7 that ~~such a~~ *the* charge is just and reasonable and is necessary to  
8 provide rate relief to upper tier residential customers of the  
9 electrical corporation.

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

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

34 (e) (1) The commission shall improve the CARE application  
35 process by cooperating with other entities and representatives of  
36 California government, including the California Health and Human  
37 Services Agency and the Secretary of California Health and Human  
38 Services, to ensure that all gas and electric customers eligible for  
39 public assistance programs in California that reside within the  
40 service territory of an electrical corporation or gas corporation,

1 are enrolled in the CARE program. To the extent practicable, the  
2 commission shall develop a CARE application process using the  
3 existing ULTS application process as a model. The commission  
4 shall work with public utility electrical and gas corporations and  
5 the Low-Income Oversight Board established in Section 382.1 to  
6 meet the low-income objectives in this section.

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

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

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

37 SEC. 2. Section 739.9 of the Public Utilities Code is amended  
38 to read:

39 739.9. (a) The commission may, subject to the limitation in  
40 subdivision (b) and the exception in subdivision (c), increase the

1 rates charged residential customers for electricity usage up to 130  
2 percent of the baseline quantities, as defined in Section 739, by  
3 the annual percentage change in the Consumer Price Index from  
4 the prior year plus 1 percent, but not less than 3 percent and not  
5 more than 5 percent per year. For purposes of this subdivision, the  
6 annual percentage change in the Consumer Price Index shall be  
7 calculated using the same formula that was used to determine the  
8 annual Social Security Cost of Living Adjustment on January 1,  
9 2008. This subdivision shall become inoperative on January 1,  
10 2019, unless a later enacted statute deletes or extends that date.

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

19 (c) The commission may approve a fixed per-customer charge  
20 not based ~~upon~~ *on* usage that applies to all *residential* customers  
21 of an electrical corporation to recover fixed costs of providing  
22 service, if the commission finds that ~~such a~~ *the* charge is just and  
23 reasonable and is necessary to provide rate relief to upper tier  
24 residential customers of the electrical corporation.

25 (d) This section does not require the commission to increase  
26 any residential rate or place any restriction upon, or otherwise  
27 limit, the authority of the commission to reduce any residential  
28 rate.

29 *SEC. 3. Section 739.11 is added to the Public Utilities Code,*  
30 *to read:*

31 *739.11. The commission shall ensure that electricity rates are*  
32 *affordable for qualified low-income residential ratepayers and*  
33 *shall require electrical corporations to offer discounts or other*  
34 *ratepayer subsidies to ensure safe, reliable, and affordable*  
35 *electricity to these residential customers so that these residential*  
36 *customers are not at risk of service disconnections that would*  
37 *cause them to sacrifice electricity service.*

38 *SEC. 4. No reimbursement is required by this act pursuant to*  
39 *Section 6 of Article XIII B of the California Constitution because*  
40 *the only costs that may be incurred by a local agency or school*

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

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