

Senate Bill No. 674

CHAPTER 255

An act to amend Sections 739.5, 8380, and 8381 of, and to repeal Section 709.7 of, the Public Utilities Code, relating to public utilities.

[Approved by Governor September 6, 2011. Filed with
Secretary of State September 6, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 674, Padilla. Telecommunications: master-metering: data security.

(1) The California High Speed Internet Access Act of 1999, among other things, requires the Public Utilities Commission to monitor and participate in a specified proceeding of the Federal Communications Commission addressing whether to require incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point, to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

This bill would repeal the California High Speed Internet Access Act of 1999.

(2) Under existing law, the commission has regulatory authority over public utilities, including electrical corporations. An electrical corporation is defined as including every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others. Existing law requires that, when gas or electric service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer charge each user a rate not to exceed the rate that would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation. Existing law creates further requirements for master-meter customers and for the corporations that provide service to them, including a requirement that a master-meter customer of a gas or electrical corporation who receives any rebate from the corporation to distribute to, or credit to the account of, each current user served by the master-meter customer a specified portion of the rebate.

This bill would exclude from the definition of "rebate" the award of a monetary incentive under the California Solar Initiative for a solar energy system that provides electrical generation to a mobilehome park.

(3) Existing law prohibits an electrical corporation or gas corporation from sharing, disclosing, or otherwise making accessible to any 3rd party a customer's electrical or gas consumption data, as defined, except as

specified. Existing law provides that, if the electrical corporation or gas corporation contracts with a 3rd party for a service that allows a customer to monitor his or her electricity or gas usage, and the 3rd party uses the data for a secondary commercial purpose, the contract between the electrical or gas corporation and the 3rd party shall provide that the 3rd party prominently discloses that secondary commercial purpose to the customer. Existing law provides that nothing precludes an electrical corporation or gas corporation from disclosing a customer's electrical or gas consumption data to a 3rd party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, if the utility contract with the 3rd party, among other provisions relating to data security, prohibits the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's consent. Existing law imposes a parallel prohibition, and parallel disclosure and consent requirements, on a local publicly owned electric utility.

This bill would require those contracts to require prescribed customer consent prior to the use of the data.

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

SECTION 1. Section 709.7 of the Public Utilities Code is repealed.

SEC. 2. Section 739.5 of the Public Utilities Code is amended to read:

739.5. (a) The commission shall require that, whenever gas or electric service, or both, is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer shall charge each user of the service at the same rate that would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation. The commission shall require the corporation furnishing service to the master-meter customer to establish uniform rates for master-meter service at a level that will provide a sufficient differential to cover the reasonable average costs to master-meter customers of providing submeter service, except that these costs shall not exceed the average cost that the corporation would have incurred in providing comparable services directly to the users of the service.

(b) Every master-meter customer of a gas or electrical corporation subject to subdivision (a) who, on or after January 1, 1978, receives any rebate from the corporation shall distribute to, or credit to the account of, each current user served by the master-meter customer that portion of the rebate which the amount of gas or electricity, or both, consumed by the user during the last billing period bears to the total amount furnished by the corporation to the master-meter customer during that period.

(c) An electrical or gas corporation furnishing service to a master-meter customer shall furnish to each user of the service within a submetered system every public safety customer service which it provides beyond the meter to its other residential customers. The corporation shall furnish a list of those

services to the master-meter customer who shall post the list in a conspicuous place accessible to all users. Every corporation shall provide these public safety customer services to each user of electrical or gas service under a submetered system without additional charge unless the corporation has included the average cost of these services in the rate differential provided to the master-meter customer on January 1, 1984, in which case the commission shall deduct the average cost of providing these public safety customer services when approving rate differentials for master-meter customers.

(d) Every master-meter customer is responsible for maintenance and repair of its submeter facilities beyond the master-meter, and nothing in this section requires an electrical or gas corporation to make repairs to or perform maintenance on the submeter system.

(e) Every master-meter customer shall provide an itemized billing of charges for electricity or gas, or both, to each individual user generally in accordance with the form and content of bills of the corporation to its residential customers, including, but not limited to, the opening and closing readings for the meter, and the identification of all rates and quantities attributable to each block in the applicable rate structure. The master-meter customer shall also post, in a conspicuous place, the applicable prevailing residential gas or electrical rate schedule, as published by the corporation.

(f) The commission shall require that every electrical and gas corporation shall notify each master-meter customer of its responsibilities to its users under this section.

(g) The commission shall accept and respond to complaints concerning the requirements of this section through the consumer affairs branch, in addition to any other staff that the commission deems necessary to assist the complainant. In responding to the complaint, the commission shall consider the role that the office of the county sealer in the complainant's county of residence may have in helping to resolve the complaint and, where appropriate, coordinate with that office.

(h) Notwithstanding any other provision of law or decision of the commission, the commission shall not deny eligibility for the California Alternative Rates for Energy (CARE) program, created pursuant to Section 739.1, for a residential user of gas or electric service who is a submetered resident or tenant served by a master-meter customer on the basis that some residential units in the master-meter customer's mobilehome park, apartment building, or similar residential complex do not receive gas or electric service through a submetered system.

(i) For purposes of this section, "rebate" does not include the award of a monetary incentive under the California Solar Initiative adopted by the Public Utilities Commission in Decision 05-12-044 and Decision 06-01-024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2, for a solar energy system that provides electrical generation to a mobilehome park.

SEC. 3. Section 8380 of the Public Utilities Code is amended to read:

8380. (a) For purposes of this section, “electrical or gas consumption data” means data about a customer’s electrical or natural gas usage that is made available as part of an advanced metering infrastructure, and includes the name, account number, or residence of the customer.

(b) (1) An electrical corporation or gas corporation shall not share, disclose, or otherwise make accessible to any third party a customer’s electrical or gas consumption data, except as provided in subdivision (e) or upon the consent of the customer.

(2) An electrical corporation or gas corporation shall not sell a customer’s electrical or gas consumption data or any other personally identifiable information for any purpose.

(3) The electrical corporation or gas corporation or its contractors shall not provide an incentive or discount to the customer for accessing the customer’s electrical or gas consumption data without the prior consent of the customer.

(4) An electrical or gas corporation that utilizes an advanced metering infrastructure that allows a customer to access the customer’s electrical and gas consumption data shall ensure that the customer has an option to access that data without being required to agree to the sharing of his or her personally identifiable information, including electrical or gas consumption data, with a third party.

(c) If an electrical corporation or gas corporation contracts with a third party for a service that allows a customer to monitor his or her electricity or gas usage, and that third party uses the data for a secondary commercial purpose, the contract between the electrical corporation or gas corporation and the third party shall provide that the third party prominently discloses that secondary commercial purpose to the customer and secures the customer’s consent to the use of his or her data for that secondary commercial purpose prior to the use of the data.

(d) An electrical corporation or gas corporation shall use reasonable security procedures and practices to protect a customer’s unencrypted electrical or gas consumption data from unauthorized access, destruction, use, modification, or disclosure.

(e) (1) This section shall not preclude an electrical corporation or gas corporation from using customer aggregate electrical or gas consumption data for analysis, reporting, or program management if all information has been removed regarding the individual identity of a customer.

(2) This section shall not preclude an electrical corporation or gas corporation from disclosing a customer’s electrical or gas consumption data to a third party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, provided that, for contracts entered into after January 1, 2011, the utility has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use

of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's prior consent to that use.

(3) This section shall not preclude an electrical corporation or gas corporation from disclosing electrical or gas consumption data as required or permitted under state or federal law or by an order of the commission.

(f) If a customer chooses to disclose his or her electrical or gas consumption data to a third party that is unaffiliated with, and has no other business relationship with, the electrical or gas corporation, the electrical or gas corporation shall not be responsible for the security of that data, or its use or misuse.

SEC. 4. Section 8381 of the Public Utilities Code is amended to read:

8381. (a) For purposes of this section, "electrical consumption data" means data about a customer's electrical usage that is made available as part of an advanced metering infrastructure, and includes the name, account number, or residence of the customer.

(b) (1) A local publicly owned electric utility shall not share, disclose, or otherwise make accessible to any third party a customer's electrical consumption data, except as provided in subdivision (e) or upon the consent of the customer.

(2) A local publicly owned electric utility shall not sell a customer's electrical consumption data or any other personally identifiable information for any purpose.

(3) The local publicly owned electric utility or its contractors shall not provide an incentive or discount to the customer for accessing the customer's electrical consumption data without the prior consent of the customer.

(4) A local publicly owned electric utility that utilizes an advanced metering infrastructure that allows a customer to access the customer's electrical consumption data shall ensure that the customer has an option to access that data without being required to agree to the sharing of his or her personally identifiable information, including electrical consumption data, with a third party.

(c) If a local publicly owned electric utility contracts with a third party for a service that allows a customer to monitor his or her electricity usage, and that third party uses the data for a secondary commercial purpose, the contract between the local publicly owned electric utility and the third party shall provide that the third party prominently discloses that secondary commercial purpose to the customer and secures the customer's consent to the use of his or her data for that secondary commercial purpose prior to the use of the data.

(d) A local publicly owned electric utility shall use reasonable security procedures and practices to protect a customer's unencrypted electrical consumption data from unauthorized access, destruction, use, modification, or disclosure, and to prohibit the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's consent.

(e) (1) This section shall not preclude a local publicly owned electric utility from using customer aggregate electrical consumption data for

analysis, reporting, or program management if all information has been removed regarding the individual identity of a customer.

(2) This section shall not preclude a local publicly owned electric utility from disclosing a customer's electrical consumption data to a third party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, provided, for contracts entered into after January 1, 2011, that the utility has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's prior consent to that use.

(3) This section shall not preclude a local publicly owned electric utility from disclosing electrical consumption data as required under state or federal law.

(f) If a customer chooses to disclose his or her electrical consumption data to a third party that is unaffiliated with, and has no other business relationship with, the local publicly owned electric utility, the utility shall not be responsible for the security of that data, or its use or misuse.