

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 923

Introduced by Assembly Member Bigelow

February 22, 2013

An act to ~~amend Section 368 of~~ *add Section 365.2 to the Public Utilities Code, relating to electrical rates energy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 923, as amended, Bigelow. ~~Electrical rates. Public Utilities Commission: direct transaction proceedings.~~

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.

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, 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 at specified costs and procedures. That law suspended the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction customer, as defined, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law. Existing law continues the suspension of direct transactions except as expressly authorized, until the Legislature, by statute, repeals the suspension or otherwise

authorizes direct transactions. Existing law requires the commission to authorize direct transactions for nonresidential end-use customers subject to a reopening schedule adopted and implemented by July 1, 2010, that 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 kilowatthour limit established for each electrical corporation.

The federal Flood Control Act of 1962 provides that specified amounts of electricity generated by the Central Valley Project power system are to be made available to Tuolumne County and Calaveras County on a first-preference basis.

This bill would require the commission, in a proceeding relating to direct transactions, to consider the federal restrictions on a preference power electricity provider, as defined, to engage in direct transactions.

~~Under existing law, the restructuring of the electrical services industry provides for a rate reduction of not less than 10% for residential and small commercial customers of electrical corporations, to remain in effect until the earlier of March 31, 2002, or the date on which specified costs have been fully recovered.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

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

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

- 1 SECTION 1. Section 365.2 is added to the Public Utilities
- 2 Code, to read:
- 3 365.2. (a) *In a proceeding relating to direct transactions, the*
- 4 *commission shall consider the federal restrictions on a preference*
- 5 *power electricity provider to engage in direct transactions.*
- 6 (b) *As used in this section, the following terms mean the*
- 7 *following:*
- 8 (1) *“Federal act” means the federal Flood Control Act of 1962*
- 9 *(Public Law 87-874).*
- 10 (2) *“Preference power electricity provider” means a public*
- 11 *power authority, or its successors, that receives all its electricity*
- 12 *pursuant to a preference right adopted and authorized by the*
- 13 *United States Congress pursuant to Section 203 of the federal act.*
- 14 ~~SECTION 1. Section 368 of the Public Utilities Code is~~
- 15 ~~amended to read:~~

1 368. ~~Each electrical corporation shall propose a cost recovery~~
2 ~~plan to the commission for the recovery of the uneconomic costs~~
3 ~~of an electrical corporation's generation-related assets and~~
4 ~~obligations identified in Section 367. The commission shall~~
5 ~~authorize the electrical corporation to recover the costs pursuant~~
6 ~~to the plan if the plan meets the following criteria:~~

7 (a) ~~The cost recovery plan shall set rates for each customer class,~~
8 ~~rate schedule, contract, or tariff option, at levels equal to the level~~
9 ~~as shown on electric rate schedules as of June 10, 1996, if rates~~
10 ~~for residential and small commercial customers are reduced so that~~
11 ~~these customers receive rate reductions of no less than 10 percent~~
12 ~~for 1998 continuing through 2002. These rate levels for each~~
13 ~~customer class, rate schedule, contract, or tariff option shall remain~~
14 ~~in effect until the earlier of March 31, 2002, or the date on which~~
15 ~~the commission-authorized costs for utility generation-related~~
16 ~~assets and obligations have been fully recovered. The electrical~~
17 ~~corporation shall be at risk for those costs not recovered during~~
18 ~~that time period. Each utility shall amortize its total uneconomic~~
19 ~~costs, to the extent possible, such that for each year during the~~
20 ~~transition period its recorded rate of return on the remaining~~
21 ~~uneconomic assets does not exceed its authorized rate of return~~
22 ~~for those assets. For purposes of determining the extent to which~~
23 ~~the costs have been recovered, any over-collections recorded in~~
24 ~~Energy Costs Adjustment Clause and Electric Revenue Adjustment~~
25 ~~Mechanism balancing accounts, as of December 31, 1996, shall~~
26 ~~be credited to the recovery of the costs.~~

27 (b) ~~The cost recovery plan shall provide for identification and~~
28 ~~separation of individual rate components, such as charges for~~
29 ~~energy, transmission, distribution, public benefit programs, and~~
30 ~~recovery of uneconomic costs. The separation of rate components~~
31 ~~required by this subdivision shall be used to ensure that customers~~
32 ~~of the electrical corporation who become eligible to purchase~~
33 ~~electricity from suppliers other than the electrical corporation pay~~
34 ~~the same unbundled component charges, other than energy, that a~~
35 ~~bundled service customer pays. Cost shifting among customer~~
36 ~~classes, rate schedules, contract, or tariff options shall not result~~
37 ~~from the separation required by this subdivision. Nothing in this~~
38 ~~provision is intended to affect the rates, terms, and conditions or~~
39 ~~to limit the use of any Federal Energy Regulatory~~

1 ~~Commission-approved contract entered into by the electrical~~
2 ~~corporation prior to the effective date of this provision.~~

3 ~~(e) In consideration of the risk that the uneconomic costs~~
4 ~~identified in Section 367 may not be recoverable within the period~~
5 ~~identified in subdivision (a) of Section 367, an electrical~~
6 ~~corporation that, as of December 20, 1995, served more than four~~
7 ~~million customers, and was also a gas corporation that served less~~
8 ~~than four thousand customers, shall have the flexibility to employ~~
9 ~~risk management tools, such as forward hedges, to manage the~~
10 ~~market price volatility associated with unexpected fluctuations in~~
11 ~~natural gas prices, and the out-of-pocket costs of acquiring the risk~~
12 ~~management tools shall be considered reasonable and collectible~~
13 ~~within the transition freeze period. This subdivision applies only~~
14 ~~to the transaction costs associated with the risk management tools~~
15 ~~and shall not include any losses from changes in market prices.~~

16 ~~(d) In order to ensure implementation of the cost recovery plan,~~
17 ~~the limitation on the maximum amount of cost recovery for nuclear~~
18 ~~facilities that may be collected in any year adopted by the~~
19 ~~commission in Decision 96-01-011 and Decision 96-04-059 shall~~
20 ~~be eliminated to allow the maximum opportunity to collect the~~
21 ~~nuclear costs within the transition cap period.~~

22 ~~(e) As to an electrical corporation that is also a gas corporation~~
23 ~~serving more than four million California customers, so long as~~
24 ~~any cost recovery plan adopted in accordance with this section~~
25 ~~satisfies subdivision (a), it shall also provide for annual increases~~
26 ~~in base revenues, effective January 1, 1997, and January 1, 1998,~~
27 ~~equal to the inflation rate for the prior year plus two percentage~~
28 ~~points, as measured by the consumer price index. The increase~~
29 ~~shall do both of the following:~~

30 ~~(1) Remain in effect pending the next general rate case review,~~
31 ~~which shall be filed not later than December 31, 1997, for rates~~
32 ~~that would become effective in January 1999. For purposes of any~~
33 ~~commission-approved performance-based ratemaking mechanism~~
34 ~~or general rate case review, the increases in base revenue authorized~~
35 ~~by this subdivision shall create no presumption that the level of~~
36 ~~base revenue reflecting those increases constitute the appropriate~~
37 ~~starting point for subsequent revenues.~~

38 ~~(2) Be used by the utility for the purposes of enhancing its~~
39 ~~transmission and distribution system safety and reliability,~~
40 ~~including, but not limited to, vegetation management and~~

1 emergency response. To the extent the revenues are not expended
2 for system safety and reliability, they shall be credited against
3 subsequent safety and reliability base revenue requirements. Any
4 excess revenues carried over shall not be used to pay any monetary
5 sanctions imposed by the commission.

6 (f) ~~The cost recovery plan shall provide the electrical corporation
7 with the flexibility to manage the renegotiation, buy-out, or
8 buy-down of the electrical corporation's power purchase
9 obligations, consistent with review by the commission to assure
10 that the terms provide net benefits to ratepayers and are otherwise
11 reasonable in protecting the interests of both ratepayers and
12 shareholders.~~

13 (g) ~~An example of a plan authorized by this section is the
14 document entitled "Restructuring Rate Settlement" transmitted to
15 the commission by Pacific Gas and Electric Company on June 12,
16 1996.~~