

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2218

Introduced by Assembly Member Bradford

February 20, 2014

An act to ~~amend Section 739.1 of~~ *add Section 739.3 to* the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2218, as amended, Bradford. Electricity and natural gas rates.

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 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 (CARE) program. ~~The CARE program provides lower rates to low-income customers that are financed through a separate rate component, that is required to be a nonbypassable element of the local distribution service and collected on the basis of usage. Eligibility for the CARE program is for those electric and gas customers with annual household incomes that are no greater than 200% of the federal poverty guideline levels.~~

~~This bill would require the commission to establish a program of electric and gas service rate assistance to food banks, as defined, with specified discounts to be provided in the form of a reduction in the overall bill for the eligible food bank customer.~~

This bill would require electrical corporations and gas corporations to develop and implement a program of rate assistance to eligible food banks, as defined, subject to direction and supervision by the commission.

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.

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: 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) The commission shall continue a program of~~
4 ~~assistance to low-income electric and gas customers with annual~~
5 ~~household incomes that are no greater than 200 percent of the~~
6 ~~federal poverty guideline levels, the cost of which shall not be~~
7 ~~borne solely by any single class of customer. For one-person~~
8 ~~households, program eligibility shall be based on two-person~~
9 ~~household guideline levels. The program shall be referred to as~~
10 ~~the California Alternate Rates for Energy or CARE program. The~~
11 ~~commission shall ensure that the level of discount for low-income~~
12 ~~electric and gas customers correctly reflects the level of need.~~
13 ~~(b) The commission shall establish rates for CARE program~~
14 ~~participants, subject to both of the following:~~
15 ~~(1) That the commission ensure that low-income ratepayers are~~
16 ~~not jeopardized or overburdened by monthly energy expenditures,~~
17 ~~pursuant to subdivision (b) of Section 382.~~
18 ~~(2) That the level of the discount for low-income electricity and~~
19 ~~gas ratepayers correctly reflects the level of need as determined~~

1 by the needs assessment conducted pursuant to subdivision (d) of
2 Section 382.

3 (e) In establishing CARE discounts for an electrical corporation
4 with 100,000 or more customer accounts in California, the
5 commission shall ensure all of the following:

6 (1) The average effective CARE discount shall not be less than
7 30 percent or more than 35 percent of the revenues that would
8 have been produced for the same billed usage by non-CARE
9 customers. The average effective discount determined by the
10 commission shall reflect any charges not paid by CARE customers,
11 including payments for the California Solar Initiative, payments
12 for the self-generation incentive program made pursuant to Section
13 379.6, payment of the separate rate component to fund the CARE
14 program made pursuant to subdivision (a) of Section 381, payments
15 made to the Department of Water Resources pursuant to Division
16 27 (commencing with Section 80000) of the Water Code, and any
17 discount in a fixed charge. The average effective CARE discount
18 shall be calculated as a weighted average of the CARE discounts
19 provided to individual customers.

20 (2) If an electrical corporation provides an average effective
21 CARE discount in excess of the maximum percentage specified
22 in paragraph (1), the electrical corporation shall not reduce, on an
23 annual basis, the average effective CARE discount by more than
24 a reasonable percentage decrease below the discount in effect on
25 January 1, 2013, or that the electrical corporation had been
26 authorized to place in effect by that date.

27 (3) The entire discount shall be provided in the form of a
28 reduction in the overall bill for the eligible CARE customer.

29 (d) The commission shall work with electrical and gas
30 corporations to establish penetration goals. The commission shall
31 authorize recovery of all administrative costs associated with the
32 implementation of the CARE program that the commission
33 determines to be reasonable, through a balancing account
34 mechanism. Administrative costs shall include, but are not limited
35 to, outreach, marketing, regulatory compliance, certification and
36 verification, billing, measurement and evaluation, and capital
37 improvements and upgrades to communications and processing
38 equipment.

39 (e) The commission shall examine methods to improve CARE
40 enrollment and participation. This examination shall include, but

1 need not be limited to, comparing information from CARE and
2 the Universal Lifeline Telephone Service (ULTS) to determine
3 the most effective means of utilizing that information to increase
4 CARE enrollment, automatic enrollment of ULTS customers who
5 are eligible for the CARE program, customer privacy issues, and
6 alternative mechanisms for outreach to potential enrollees. The
7 commission shall ensure that a customer consents prior to
8 enrollment. The commission shall consult with interested parties,
9 including ULTS providers, to develop the best methods of
10 informing ULTS customers about other available low-income
11 programs, as well as the best mechanism for telephone providers
12 to recover reasonable costs incurred pursuant to this section.

13 (f) (1) The commission shall improve the CARE application
14 process by cooperating with other entities and representatives of
15 California government, including the California Health and Human
16 Services Agency and the Secretary of California Health and Human
17 Services, to ensure that all gas and electric customers eligible for
18 public assistance programs in California that reside within the
19 service territory of an electrical corporation or gas corporation,
20 are enrolled in the CARE program. The commission may determine
21 that gas and electric customers are categorically eligible for CARE
22 assistance if they are enrolled in other public assistance programs
23 with substantially the same income eligibility requirements as the
24 CARE program. To the extent practicable, the commission shall
25 develop a CARE application process using the existing ULTS
26 application process as a model. The commission shall work with
27 electrical and gas corporations and the Low-Income Oversight
28 Board established in Section 382.1 to meet the low-income
29 objectives in this section.

30 (2) The commission shall ensure that an electrical corporation
31 or gas corporation with a commission-approved program to provide
32 discounts based upon economic need in addition to the CARE
33 program, including a Family Electric Rate Assistance program,
34 utilize a single application form, to enable an applicant to
35 alternatively apply for any assistance program for which the
36 applicant may be eligible. It is the intent of the Legislature to allow
37 applicants under one program, that may not be eligible under that
38 program, but that may be eligible under an alternative assistance
39 program based upon economic need, to complete a single

1 application for any commission-approved assistance program
2 offered by the public utility.

3 (g) It is the intent of the Legislature that the commission ensure
4 CARE program participants receive affordable electric and gas
5 service that does not impose an unfair economic burden on those
6 participants.

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

21 (i) (1) In addition to existing assessments of eligibility, an
22 electrical corporation may require proof of income eligibility for
23 those CARE program participants whose electricity usage, in any
24 monthly or other billing period, exceeds 400 percent of baseline
25 usage. The authority of an electrical corporation to require proof
26 of income eligibility is not limited by the means by which the
27 CARE program participant enrolled in the program, including if
28 the participant was automatically enrolled in the CARE program
29 because of participation in a governmental assistance program. If
30 a CARE program participant's electricity usage exceeds 400
31 percent of baseline usage, the electrical corporation may require
32 the CARE program participant to participate in the Energy Savings
33 Assistance Program (ESAP), which includes a residential energy
34 assessment, in order to provide the CARE program participant
35 with information and assistance in reducing his or her energy usage.
36 Continued participation in the CARE program may be conditioned
37 upon the CARE program participant agreeing to participate in
38 ESAP within 45 days of notice being given by the electrical
39 corporation pursuant to this paragraph. The electrical corporation
40 may require the CARE program participant to notify the utility of

1 whether the residence is rented, and if so, a means by which to
2 contact the landlord, and the electrical corporation may share any
3 evaluation and recommendation relative to the residential structure
4 that is made as part of an energy assessment, with the landlord of
5 the CARE program participant. Requirements imposed pursuant
6 to this paragraph shall be consistent with procedures adopted by
7 the commission.

8 (2) If a CARE program participant's electricity usage exceeds
9 600 percent of baseline usage, the electrical corporation shall
10 require the CARE program participant to participate in ESAP,
11 which includes a residential energy assessment, in order to provide
12 the CARE program participant with information and assistance in
13 reducing his or her energy usage. Continued participation in the
14 CARE program shall be conditioned upon the CARE program
15 participant agreeing to participate in ESAP within 45 days of a
16 notice made by the electrical corporation pursuant to this paragraph.
17 The electrical corporation may require the CARE program
18 participant to notify the utility of whether the residence is rented,
19 and if so, a means by which to contact the landlord, and the
20 electrical corporation may share any evaluation and
21 recommendation relative to the residential structure that is made
22 as part of an energy assessment, with the landlord of the CARE
23 program participant. Following the completion of the energy
24 assessment, if the CARE program participant's electricity usage
25 continues to exceed 600 percent of baseline usage, the electrical
26 corporation may remove the CARE program participant from the
27 program if the removal is consistent with procedures adopted by
28 the commission. Nothing in this paragraph shall prevent a CARE
29 program participant with electricity usage exceeding 600 percent
30 of baseline usage from participating in an appeals process with the
31 electrical corporation to determine whether the participant's usage
32 levels are legitimate.

33 (3) A CARE program participant in a rental residence shall not
34 be removed from the program in situations where the landlord is
35 nonresponsive when contacted by the electrical corporation or
36 does not provide for ESAP participation.

37 (j) (1) For purposes of this subdivision, the following terms
38 have the following meanings:

39 (A) "Food bank" means a surplus food collection and
40 distribution system operated and established to assist in bringing

1 ~~donated agricultural products or food to nonprofit charitable~~
2 ~~organizations and individuals for the purposes of reducing hunger~~
3 ~~and supplying nutritional needs. In order to qualify as a food bank~~
4 ~~that brings donated agricultural products to nonprofit charitable~~
5 ~~organizations or individuals, an organization shall meet the~~
6 ~~minimum standards of Section 58503.1 of the Food and~~
7 ~~Agricultural Code.~~

8 (B) ~~“Nonprofit charitable organization” means an organization~~
9 ~~described in Section 501(e)(3) of the Internal Revenue Code (26~~
10 ~~U.S.C. Sec. 501(e)(3)), that is exempt from taxation under Section~~
11 ~~501(a) of that code (16 U.S.C. Sec. 501(a)).~~

12 ~~(2) The commission shall establish a program of electric and~~
13 ~~gas service rate assistance to food banks, the cost of which shall~~
14 ~~not be borne solely by any single class of customer. The average~~
15 ~~effective food bank discount shall not be less than 30 percent or~~
16 ~~more than 35 percent of the revenues that would have been~~
17 ~~produced for the same billed usage without the discount. The~~
18 ~~average effective discount determined by the commission shall~~
19 ~~reflect any charges not paid by food banks receiving service~~
20 ~~pursuant to the food bank tariff, including payments for the~~
21 ~~California Solar Initiative, payments for the self-generation~~
22 ~~incentive program made pursuant to Section 379.6, payment of~~
23 ~~the separate rate component to fund the CARE program made~~
24 ~~pursuant to subdivision (a) of Section 381, payments made to the~~
25 ~~Department of Water Resources pursuant to Division 27~~
26 ~~(commencing with Section 80000) of the Water Code, and any~~
27 ~~discount in a fixed charge. The entire discount shall be provided~~
28 ~~in the form of a reduction in the overall bill for the eligible food~~
29 ~~bank customer.~~

30 *SECTION 1. Section 739.3 is added to the Public Utilities*
31 *Code, to read:*

32 *739.3. Subject to direction and supervision by the commission,*
33 *electrical corporations and gas corporations shall develop and*
34 *implement a program of rate assistance to eligible food banks.*
35 *For purposes of this section, “eligible food bank” means a public*
36 *or charitable institution that participates in The Emergency Food*
37 *Assistance Program administered by the Food and Nutrition*
38 *Service of the United States Department of Agriculture.*

39 SEC. 2. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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