

Introduced by Senator Padilla

February 20, 2014

An act to amend ~~Section~~ *Sections 955.1 and 3440.1 of the Civil Code, to amend Sections 63010, 63025.1, 63041.5, 63043, 63048.3, 63048.56, 63048.7, 63049.2, 63049.62, 64049.64, 63049.67, and 63071 of, and to repeal Article 4 (commencing with Section 63042) of Chapter 2 of Division 1 of Title 6.7 of, the Government Code, to amend Sections 331, 332.1, ~~367~~, 337, 339, 341.5, 348, 349.5, 359, 364, 365, 369, 370, 371, 372, ~~373~~, 374, 379, ~~397, 846.2~~, 394.5, 395, 399.2, 2827, 9600, and 9607 of, and to repeal Sections 330, 335, 336, 338, 340, 341, 341.1, 341.2, 341.3, 341.4, 350, 355, 356, 361, 363, 367, 367.7, 368, 368.5, 373, 374.5, ~~and 375~~ 375, 376, 390, 390.1, and 397 of, and to repeal Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of, the Public Utilities Code, and to amend Section 31071.5 of the Streets and Highways Code, relating to electricity.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Padilla. Electrical restructuring.

The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator and a Power Exchange as nonprofit public benefit corporations. Existing law requires the Independent System Operator, within 6 months after receiving approval for its operation by the Federal Energy Regulatory Commission, to provide a report to the Legislature and the Electricity Oversight Board containing specified matter.

This bill would repeal this reporting requirement.

Electrical restructuring makes legislative findings and declarations in order to provide guidance to the Public Utilities Commission in carrying out restructuring.

This bill repeals those legislative findings and declarations.

In addition to establishing the Independent System Operator and the Power Exchange, electrical restructuring established an Electricity Oversight Board (Oversight Board) to oversee the Independent System Operator and the Power Exchange in order to ensure the success of electrical restructuring and to ensure a reliable supply of electricity in the transition to a new market structure.

This bill abolishes the Oversight Board and Power Exchange.

Electrical restructuring states the intent of the Legislature that individual customers not experience rate increases as a result of the allocation of transition costs, as specified, and requires the Public Utilities Commission to implement a methodology for calculating certain Power Exchange energy credits.

This bill would repeal this provision.

Electrical restructuring *required the commission to identify and determine those costs and categories of costs for generation-related assets and obligations that were being collected in commission-approved rates on December 20, 1995, that might become uneconomic as a result of a competitive generation market. Electrical restructuring requires each electrical corporation to propose a cost recovery plan to the commission for the recovery of the uneconomic costs of an electrical corporation's generation-related assets and obligations, requires that the plan contain specified matter, and requires that the plan set rates for each customer class, rate schedule, contract, or tariff option, at levels equal to the level as shown on electric rate schedules as of June 10, 1996, provided that rates for residential and small commercial customers be reduced so that these customers receive rate reductions of no less than 10% for 1998 continuing through 2002. Electrical restructuring prohibits the commission, upon the termination of the 10% rate reduction for residential and small commercial customers, from subjecting those residential and small commercial customers to any rate increase or future rate obligations solely as a result of the termination of the 10% rate reduction. Electrical restructuring authorizes an electrical corporation to apply to the commission for a determination that certain transition costs, as defined, may be recovered through fixed transition amounts, which constitute transition property, as defined, and provides, until December 31, 2015, for the issuance of financing orders by the*

commission, and provides for the issuance of rate reduction bonds utilizing the California Infrastructure and Economic Development Bank, to be repaid out of rates.

This bill would repeal these provisions.

Electrical restructuring requires the commission to establish an effective mechanism that ensures recovery of specified transition costs from all existing and future consumers in the service territory in which the utility provided electricity services as of December 20, 1995, except that the costs shall not be recoverable for new customer load or incremental load of an existing customer where the load is being met through a direct transaction and the transaction does not otherwise require the use of transmission or distribution facilities owned by the utility.

This bill would provide that competition transition charges that are authorized by the commission prior to January 1, 2015, continue to apply to all existing and future consumers in the service territory in which the utility provided electricity services as of December 20, 1995, subject to the exception described above.

Electrical restructuring directed the commission to authorize direct transactions between electricity suppliers and end-use customers, subject to implementation of nonbypassable charges, as specified. Other provisions reference these charges as a nonbypassable charge, while other provisions reference these charges as an obligation to pay uneconomic costs, as specified.

This bill would replace the various references to the specified statutory charges with “competition transition charges.”

Electrical restructuring requires any electrical corporation serving agricultural customers with multiple meters to conduct research based on a statistically valid sample of those customers and meters to determine the typical simultaneous peak load of those customers and to report the results to those customers and the commission by July 1, 2001. Electrical restructuring requires the commission to consider the research results in setting future electrical distribution rates for those customers.

This bill would repeal this provision.

Electrical restructuring requires the commission to allow recovery of reasonable employee related transition costs incurred and projected for severance, retraining, early retirement, outplacement, and related expenses for the employees in order to mitigate potential negative impacts on utility personnel directly affected by restructuring.

This bill would repeal this provision.

Existing law requires, for an electric generating facility sold by an electrical corporation in a transaction initiated prior to December 31, 2001, and approved by the commission by December 31, 2002, that the selling utility contract with the purchaser for the selling utility, an affiliate, or a successor corporation to operate and maintain the facility for at least 2 years, and authorizes the commission to require these conditions for transactions initiated on or after January 1, 2002.

This bill would repeal this provision.

Existing law, enacted as part of restructuring, prescribes how energy prices paid to nonutility electrical generators, known as qualifying facilities under federal law, by an electrical corporation based on the commission's "short run avoided cost energy methodology" are to be determined, subject to applicable contractual terms. Existing law authorizes a nonutility electrical generator using renewable fuels that entered into a contract with an electrical corporation prior to December 31, 2001, specifying fixed energy prices for 5 years of electrical output to negotiate a contract of an additional 5 years of fixed energy payments upon expiration of the initial 5-year term, at a price to be determined by the commission.

This bill would repeal this provision.

This bill would repeal a provision authorizing an electrical corporation that was also a gas corporation that served fewer than 4,000,000 customers as of December 20, 1995, to file a rate cap mechanism that includes a Fuel Price Index Mechanism, as specified, which authorization became inoperative on December 31, 2001.

This bill would strike references to these repealed statutes.

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 955.1 of the Civil Code is amended to*
- 2 *read:*
- 3 955.1. (a) Except as provided in Sections 954.5 and 955 and
- 4 subject to subdivisions (b) and (c), a transfer other than one
- 5 intended to create a security interest (paragraph (1) or (3) of
- 6 subdivision (a) of Section 9109 of the Commercial Code) of any
- 7 payment intangible (Section 9102 of the Commercial Code) and
- 8 any transfer of accounts, chattel paper, payment intangibles, or

1 promissory notes excluded from the coverage of Division 9 of the
2 Commercial Code by paragraph (4) of subdivision (d) of Section
3 9109 of the Commercial Code shall be deemed perfected as against
4 third persons upon there being executed and delivered to the
5 transferee an assignment thereof in writing.

6 (b) As between bona fide assignees of the same right for value
7 without notice, the assignee first giving notice thereof to the obligor
8 in writing has priority.

9 (c) The assignment is not, of itself, notice to the obligor so as
10 to invalidate any payments made by the obligor to the transferor.

11 ~~(d) This section does not apply to transfers or assignments of~~
12 ~~transition property, as defined in Section 840 of the Public Utilities~~
13 ~~Code, or to transfers or assignments of recovery property, as~~
14 ~~defined in Section 848 of the Public Utilities Code.~~

15 *SEC. 2. Section 3440.1 of the Civil Code is amended to read:*

16 3440.1. This chapter does not apply to any of the following:

17 (a) Things in action.

18 (b) Ships or cargoes if either are at sea or in a foreign port.

19 (c) The sale of accounts, chattel paper, payment intangibles, or
20 promissory notes governed by the Uniform Commercial Code,
21 security interests, and contracts of bottomry or respondentia.

22 (d) Wines or brandies in the wineries, distilleries, or wine cellars
23 of the makers or owners of the wines or brandies, or other persons
24 having possession, care, and control of the wines or brandies, and
25 the pipes, casks, and tanks in which the wines or brandies are
26 contained, if the transfers are made in writing and executed and
27 acknowledged, and if the transfers are recorded in the book of
28 official records in the office of the county recorder of the county
29 in which the wines, brandies, pipes, casks, and tanks are situated.

30 (e) A transfer or assignment made for the benefit of creditors
31 generally or by any assignee acting under an assignment for the
32 benefit of creditors generally.

33 (f) Property exempt from enforcement of a money judgment.

34 (g) Standing timber.

35 (h) Subject to the limitations in Section 3440.3, a transfer of
36 personal property if all of the following conditions are satisfied:

37 (1) Prior to the date of the intended transfer, the transferor or
38 the transferee files a financing statement, with respect to the
39 property transferred, authorized in an authenticated record by the
40 transferor. The financing statement shall be filed in the office of

1 the Secretary of State in accordance with Chapter 5 (commencing
2 with Section 9501) of Division 9 of the Commercial Code, but
3 may use the terms “transferor” in lieu of “debtor” and “transferee”
4 in lieu of “secured party.” The provisions of Chapter 5
5 (commencing with Section 9501) of Division 9 of the Commercial
6 Code shall apply as appropriate to the financing statement.

7 (2) The transferor or the transferee publishes a notice of the
8 intended transfer one time in a newspaper of general circulation
9 published in the judicial district in which the personal property is
10 located, if there is one, and if there is none in the judicial district,
11 then in a newspaper of general circulation in the county embracing
12 the judicial district. The publication shall be completed not less
13 than 10 days before the date the transfer occurs. The notice shall
14 contain the name and address of the transferor and transferee and
15 a general statement of the character of the personal property
16 intended to be transferred, and shall indicate the place where the
17 personal property is located and a date on or after which the transfer
18 is to be made.

19 (i) Personal property not located within this state at the time of
20 the transfer or attachment of the lien if the provisions of this
21 subdivision are not used for the purpose of evading this chapter.

22 (j) A transfer of property that (1) is subject to a statute or treaty
23 of the United States or a statute of this state that provides for the
24 registration of transfers of title or issuance of certificates of title
25 and (2) is so far perfected under that statute or treaty that a bona
26 fide purchaser cannot acquire an interest in the property transferred
27 that is superior to the interest of the transferee.

28 (k) A transfer of personal property in connection with a
29 transaction in which the property is immediately thereafter leased
30 by the transferor from the transferee provided the transferee
31 purchased the property for value and in good faith (subdivision
32 (c) of Section 10308 of the Commercial Code).

33 ~~(l) Transition property, as defined in Section 840 of the Public~~
34 ~~Utilities Code, or recovery property, as defined in Section 848 of~~
35 ~~the Public Utilities Code.~~

36 ~~(m)~~

37 (l) A transfer of property by any governmental entity.

38 *SEC. 3. Section 63010 of the Government Code is amended to*
39 *read:*

1 63010. For purposes of this division, the following words and
2 terms shall have the following meanings unless the context clearly
3 indicates or requires another or different meaning or intent:

4 (a) “Act” means the Bergeson-Peace Infrastructure and
5 Economic Development Bank Act.

6 (b) “Bank” means the California Infrastructure and Economic
7 Development Bank.

8 (c) “Board” or “bank board” means the Board of Directors of
9 the California Infrastructure and Economic Development Bank.

10 (d) “Bond purchase agreement” means a contractual agreement
11 executed between the bank and a sponsor, or a special purpose
12 trust authorized by the bank or a sponsor, or both, whereby the
13 bank or special purpose trust authorized by the bank agrees to
14 purchase bonds of the sponsor for retention or sale.

15 (e) “Bonds” means bonds, including structured, senior, and
16 subordinated bonds or other securities; loans; notes, including
17 bond, revenue, tax or grant anticipation notes; commercial paper;
18 floating rate and variable maturity securities; and any other
19 evidences of ~~indebtedness or ownership~~, *indebtedness* including
20 certificates of participation ~~or beneficial interest~~, *asset-backed*
21 ~~certificates~~, or lease-purchase ~~or installment purchase~~ agreements,
22 whether taxable or excludable from gross income for federal
23 income taxation purposes.

24 (f) “Cost,” as applied to a project or portion thereof financed
25 under this division, means all or any part of the cost of construction,
26 renovation, and acquisition of all lands, structures, real or personal
27 property, rights, rights-of-way, franchises, licenses, easements,
28 and interests acquired or used for a project; the cost of demolishing
29 or removing any buildings or structures on land so acquired,
30 including the cost of acquiring any lands to which the buildings
31 or structures may be moved; the cost of all machinery, equipment,
32 and financing charges; interest prior to, during, and for a period
33 after completion of construction, renovation, or acquisition, as
34 determined by the bank; provisions for working capital; reserves
35 for principal and interest and for extensions, enlargements,
36 additions, replacements, renovations, and improvements; and the
37 cost of architectural, engineering, financial and legal services,
38 plans, specifications, estimates, administrative expenses, and other
39 expenses necessary or incidental to determining the feasibility of
40 any project or incidental to the construction, acquisition, or

1 financing of any ~~project, and transition costs in the case of an~~
2 ~~electrical corporation:~~ *project*.

3 (g) “Economic development facilities” means real and personal
4 property, structures, buildings, equipment, and supporting
5 components thereof that are used to provide industrial, recreational,
6 research, commercial, utility, or service enterprise facilities,
7 community, educational, cultural, or social welfare facilities and
8 any parts or combinations thereof, and all facilities or infrastructure
9 necessary or desirable in connection therewith, including provision
10 for working capital, but shall not include any housing.

11 (h) “Electrical corporation” has the meaning set forth in Section
12 218 of the Public Utilities Code.

13 (i) “Executive director” means the Executive Director of the
14 California Infrastructure and Economic Development Bank
15 appointed pursuant to Section 63021.

16 (j) “Financial assistance” in connection with a project, includes,
17 but is not limited to, any combination of grants, loans, the proceeds
18 of bonds issued by the bank or special purpose trust, insurance,
19 guarantees or other credit enhancements or liquidity facilities, and
20 contributions of money, property, labor, or other things of value,
21 as may be approved by resolution of the board or the sponsor, or
22 both; the purchase or retention of bank bonds, the bonds of a
23 sponsor for their retention or for sale by the bank, or the issuance
24 of bank bonds or the bonds of a special purpose trust used to fund
25 the cost of a project for which a sponsor is directly or indirectly
26 liable, including, but not limited to, bonds, the security for which
27 is provided in whole or in part pursuant to the powers granted by
28 Section 63025; bonds for which the bank has provided a guarantee
29 or enhancement, including, but not limited to, the purchase of the
30 subordinated bonds of the sponsor, the subordinated bonds of a
31 special purpose trust, or the retention of the subordinated bonds
32 of the bank pursuant to Chapter 4 (commencing with Section
33 63060); or any other type of assistance deemed appropriate by the
34 bank or the sponsor, except that no direct loans shall be made to
35 nonpublic entities other than ~~in connection with the issuance of~~
36 ~~rate reduction bonds pursuant to a financing order or~~ in connection
37 with a financing for an economic development facility.

38 For purposes of this subdivision, “grant” does not include grants
39 made by the bank except when acting as an agent or intermediary

1 for the distribution or packaging of financing available from
2 federal, private, or other public sources.

3 ~~(k) “Financing order” has the meaning set forth in Section 840~~
4 ~~of the Public Utilities Code.~~

5 ~~(l)~~

6 (k) “Guarantee trust fund” means the California Infrastructure
7 Guarantee Trust Fund.

8 ~~(m)~~

9 (l) “Infrastructure bank fund” means the California Infrastructure
10 and Economic Development Bank Fund.

11 ~~(n)~~

12 (m) “Loan agreement” means a contractual agreement executed
13 between the bank or a special purpose trust and a sponsor that
14 provides that the bank or special purpose trust will loan funds to
15 the sponsor and that the sponsor will repay the principal and pay
16 the interest and redemption premium, if any, on the loan.

17 ~~(o)~~

18 (n) “Participating party” means any person, company,
19 corporation, association, state or municipal governmental entity,
20 partnership, firm, or other entity or group of entities, whether
21 organized for profit or not for profit, engaged in business or
22 operations within the state and that applies for financing from the
23 bank in conjunction with a sponsor for the purpose of implementing
24 a project. ~~However, in the case of a project relating to the financing~~
25 ~~of transition costs or the acquisition of transition property, or both,~~
26 ~~on the request of an electrical corporation, or in connection with~~
27 ~~a financing for an economic development facility, or for the~~
28 ~~financing of insurance claims, the participating party shall be~~
29 ~~deemed to be the same entity as the sponsor for the financing.~~

30 ~~(p)~~

31 (o) “Project” means designing, acquiring, planning, permitting,
32 entitling, constructing, improving, extending, restoring, financing,
33 and generally developing public development facilities or economic
34 development facilities within the state ~~or financing transition costs~~
35 ~~or the acquisition of transition property, or both, upon approval of~~
36 ~~a financing order by the Public Utilities Commission, as provided~~
37 ~~in Article 5.5 (commencing with Section 840) of Chapter 4 of Part~~
38 ~~1 of Division 1 of the Public Utilities Code. state.~~

39 ~~(q)~~

1 (p) “Public development facilities” means real and personal
2 property, structures, conveyances, equipment, thoroughfares,
3 buildings, and supporting components thereof, excluding any
4 housing, that are directly related to providing the following:

5 (1) “City streets” including any street, avenue, boulevard, road,
6 parkway, drive, or other way that is any of the following:

7 (A) An existing municipal roadway.

8 (B) Is shown upon a plat approved pursuant to law and includes
9 the land between the street lines, whether improved or unimproved,
10 and may comprise pavement, bridges, shoulders, gutters, curbs,
11 guardrails, sidewalks, parking areas, benches, fountains, plantings,
12 lighting systems, and other areas within the street lines, as well as
13 equipment and facilities used in the cleaning, grading, clearance,
14 maintenance, and upkeep thereof.

15 (2) “County highways” including any county highway as defined
16 in Section 25 of the Streets and Highways Code, that includes the
17 land between the highway lines, whether improved or unimproved,
18 and may comprise pavement, bridges, shoulders, gutters, curbs,
19 guardrails, sidewalks, parking areas, benches, fountains, plantings,
20 lighting systems, and other areas within the street lines, as well as
21 equipment and facilities used in the cleaning, grading, clearance,
22 maintenance, and upkeep thereof.

23 (3) “Drainage, water supply, and flood control” including, but
24 not limited to, ditches, canals, levees, pumps, dams, conduits,
25 pipes, storm sewers, and dikes necessary to keep or direct water
26 away from people, equipment, buildings, and other protected areas
27 as may be established by lawful authority, as well as the
28 acquisition, improvement, maintenance, and management of
29 floodplain areas and all equipment used in the maintenance and
30 operation of the foregoing.

31 (4) “Educational facilities” including libraries, child care
32 facilities, including, but not limited to, day care facilities, and
33 employment training facilities.

34 (5) “Environmental mitigation measures” including required
35 construction or modification of public infrastructure and purchase
36 and installation of pollution control and noise abatement
37 equipment.

38 (6) “Parks and recreational facilities” including local parks,
39 recreational property and equipment, parkways and property.

1 (7) “Port facilities” including docks, harbors, ports of entry,
2 piers, ships, small boat harbors and marinas, and any other
3 facilities, additions, or improvements in connection therewith.

4 (8) “Power and communications” including facilities for the
5 transmission or distribution of electrical energy, natural gas, and
6 telephone and telecommunications service.

7 (9) “Public transit” including air and rail transport of goods,
8 airports, guideways, vehicles, rights-of-way, passenger stations,
9 maintenance and storage yards, and related structures, including
10 public parking facilities, equipment used to provide or enhance
11 transportation by bus, rail, ferry, or other conveyance, either
12 publicly or privately owned, that provides to the public general or
13 special service on a regular and continuing basis.

14 (10) “Sewage collection and treatment” including pipes, pumps,
15 and conduits that collect wastewater from residential,
16 manufacturing, and commercial establishments, the equipment,
17 structures, and facilities used in treating wastewater to reduce or
18 eliminate impurities or contaminants, and the facilities used in
19 disposing of, or transporting, remaining sludge, as well as all
20 equipment used in the maintenance and operation of the foregoing.

21 (11) “Solid waste collection and disposal” including vehicles,
22 vehicle-compatible waste receptacles, transfer stations, recycling
23 centers, sanitary landfills, and waste conversion facilities necessary
24 to remove solid waste, except that which is hazardous as defined
25 by law, from its point of origin.

26 (12) “Water treatment and distribution” including facilities in
27 which water is purified and otherwise treated to meet residential,
28 manufacturing, or commercial purposes and the conduits, pipes,
29 and pumps that transport it to places of use.

30 (13) “Defense conversion” including, but not limited to, facilities
31 necessary for successfully converting military bases consistent
32 with an adopted base reuse plan.

33 (14) “Public safety facilities” including, but not limited to, police
34 stations, fire stations, court buildings, jails, juvenile halls, and
35 juvenile detention facilities.

36 (15) “State highways” including any state highway as described
37 in Chapter 2 (commencing with Section 230) of Division 1 of the
38 Streets and Highways Code, and the related components necessary
39 for safe operation of the highway.

1 (16) (A) Military infrastructure, including, but not limited to,
2 facilities on or near a military installation, that enhance the military
3 operations and mission of one or more military installations in this
4 state. To be eligible for funding, the project shall be endorsed by
5 the Office of Military and Aerospace Support established pursuant
6 to Section 13998.2.

7 (B) For purposes of this subdivision, “military installation”
8 means any facility under the jurisdiction of the Department of
9 Defense, as defined in paragraph (1) of subsection (e) of Section
10 2687 of Title 10 of the United States Code.

11 ~~(r) “Rate reduction bonds” has the meaning set forth in Section~~
12 ~~840 of the Public Utilities Code.~~

13 ~~(s)~~

14 (q) “Revenues” means all receipts, purchase payments, loan
15 repayments, lease payments, and all other income or receipts
16 derived by the bank or a sponsor from the sale, lease, or other
17 financing arrangement undertaken by the bank, a sponsor or a
18 participating party, including, but not limited to, all receipts from
19 a bond purchase agreement, and any income or revenue derived
20 from the investment of any money in any fund or account of the
21 bank or a sponsor and any receipts derived from transition property.
22 *sponsor*. Revenues shall not include moneys in the General Fund
23 of the state.

24 ~~(t)~~

25 (r) “Special purpose trust” means a trust, partnership, limited
26 partnership, association, corporation, nonprofit corporation, or
27 other entity authorized under the laws of the state to serve as an
28 instrumentality of the state to accomplish public purposes and
29 authorized by the bank to acquire, by purchase or otherwise, for
30 retention or sale, the bonds of a sponsor or of the bank made or
31 entered into pursuant to this division and to issue special purpose
32 trust bonds or other obligations secured by these bonds or other
33 sources of public or private revenues. ~~Special purpose trust also~~
34 ~~means any entity authorized by the bank to acquire transition~~
35 ~~property or to issue rate reduction bonds, or both, subject to the~~
36 ~~approvals by the bank and powers of the bank as are provided by~~
37 ~~the bank in its resolution authorizing the entity to issue rate~~
38 ~~reduction bonds.~~

39 ~~(u)~~

1 (s) “Sponsor” means any subdivision of the state or local
2 government including departments, agencies, commissions, cities,
3 counties, nonprofit corporations formed on behalf of a sponsor,
4 special districts, assessment districts, and joint powers authorities
5 within the state or any combination of these subdivisions that
6 makes an application to the bank for financial assistance in
7 connection with a project in a manner prescribed by the bank. This
8 definition shall not be construed to require that an applicant have
9 an ownership interest in the project. In addition, ~~an electrical~~
10 ~~corporation shall be deemed to be the sponsor as well as the~~
11 ~~participating party for any project relating to the financing of~~
12 ~~transition costs and the acquisition of transition property on the~~
13 ~~request of the electrical corporation and any person, company,~~
14 ~~corporation, partnership, firm, or other entity or group engaged in~~
15 ~~business or operation within the state that applies for financing of~~
16 ~~any economic development facility, shall be deemed to be the~~
17 ~~sponsor as well as the participating party for the project relating~~
18 ~~to the financing of that economic development facility.~~

19 (v)

20 (t) “State” means the State of California.

21 (w) ~~“Transition costs” has the meaning set forth in Section 840~~
22 ~~of the Public Utilities Code.~~

23 (x) ~~“Transition property” has the meaning set forth in Section~~
24 ~~840 of the Public Utilities Code.~~

25 *SEC. 4. Section 63025.1 of the Government Code is amended*
26 *to read:*

27 63025.1. The bank board may do or delegate the following to
28 the executive director:

29 (a) Sue and be sued in its own name.

30 (b) As provided in Chapter 5 (commencing with Section 63070),
31 issue bonds and authorize special purpose trusts to issue bonds,
32 including, at the option of the board, bonds bearing interest that
33 is taxable for the purpose of federal income taxation, or borrow
34 money to pay all or any part of the cost of any project, or to
35 otherwise carry out the purposes of this division.

36 (c) Engage the services of private consultants to render
37 professional and technical assistance and advice in carrying out
38 the purposes of this division.

39 (d) Employ attorneys, financial consultants, and other advisers
40 as may, in the bank’s judgment, be necessary in connection with

1 the issuance and sale, or authorization of special purpose trusts for
2 the issuance and sale, of any bonds, notwithstanding Sections
3 11042 and 11043.

4 (e) Contract for engineering, architectural, accounting, or other
5 services of appropriate state agencies as may, in its judgment, be
6 necessary for the successful development of a project.

7 (f) Pay the reasonable costs of consulting engineers, architects,
8 accountants, and construction, land use, recreation, and
9 environmental experts employed by any sponsor or participating
10 party if, in the bank's judgment, those services are necessary for
11 the successful development of a project.

12 (g) Acquire, take title to, and sell by installment sale or
13 otherwise, lands, structures, real or personal property, rights,
14 rights-of-way, franchises, easements, and other interests in lands
15 that are located within the state, ~~or transition property~~ as the bank
16 may deem necessary or convenient for the financing of the project,
17 upon terms and conditions that it considers to be reasonable.

18 (h) Receive and accept from any source including, but not
19 limited to, the federal government, the state, or any agency thereof,
20 loans, contributions, or grants, in money, property, labor, or other
21 things of value, for, or in aid of, a project, or any portion thereof.

22 (i) Make loans to any sponsor or participating party, either
23 directly or by making a loan to a lending institution, in connection
24 with the financing of a project in accordance with an agreement
25 between the bank and the sponsor or a participating party, either
26 as a sole lender or in participation with other lenders. However,
27 no loan shall exceed the total cost of the project as determined by
28 the sponsor or the participating party and approved by the bank.

29 (j) Make loans to any sponsor or participating party, either
30 directly or by making a loan to a lending institution, in accordance
31 with an agreement between the bank and the sponsor or
32 participating party to refinance indebtedness incurred by the
33 sponsor or participating party in connection with projects
34 undertaken and completed prior to any agreement with the bank
35 or expectation that the bank would provide financing, either as a
36 sole lender or in participation with other lenders.

37 (k) Mortgage all or any portion of the bank's interest in a project
38 and the property on which any project is located, whether owned
39 or thereafter acquired, including the granting of a security interest
40 in any property, tangible or intangible.

1 (l) Assign or pledge all or any portion of the bank's interests in
2 ~~transition property and the revenues therefrom, or assets, things~~
3 of value, mortgages, deeds of trust, bonds, bond purchase
4 agreements, loan agreements, indentures of mortgage or trust, or
5 similar instruments, notes, and security interests in property,
6 tangible or intangible and the revenues therefrom, of a sponsor or
7 a participating party to which the bank has made loans, and the
8 revenues therefrom, including payment or income from any interest
9 owned or held by the bank, for the benefit of the holders of bonds.

10 (m) Make, receive, or serve as a conduit for the making of, or
11 otherwise provide for, grants, contributions, guarantees, insurance,
12 credit enhancements or liquidity facilities, or other financial
13 enhancements to a sponsor or a participating party as financial
14 assistance for a project.

15 (n) Lease the project being financed to a sponsor or a
16 participating party, upon terms and conditions that the bank deems
17 proper but shall not be leased at a loss; charge and collect rents
18 therefor; terminate any lease upon the failure of the lessee to
19 comply with any of the obligations thereof; include in any lease,
20 if desired, provisions that the lessee shall have options to renew
21 the lease for a period or periods, and at rents determined by the
22 bank; purchase any or all of the project; or, upon payment of all
23 the indebtedness incurred by the bank for the financing of the
24 project, the bank may convey any or all of the project to the lessee
25 or lessees.

26 (o) Charge and equitably apportion among sponsors and
27 participating parties the bank's administrative costs and expenses
28 incurred in the exercise of the powers and duties conferred by this
29 division.

30 (p) Issue, obtain, or aid in obtaining, from any department or
31 agency of the United States, from other agencies of the state, or
32 from any private company, any insurance or guarantee to, or for,
33 the payment or repayment of interest or principal, or both, or any
34 part thereof, on any loan, lease, or obligation or any instrument
35 evidencing or securing the same, made or entered into pursuant to
36 this division.

37 (q) Notwithstanding any other provision of this division, enter
38 into any agreement, contract, or any other instrument with respect
39 to any insurance or guarantee; accept payment in the manner and
40 form as provided therein in the event of default by a sponsor or a

1 participating party; and issue or assign any insurance or guarantee
2 as security for the bank's bonds.

3 (r) Enter into any agreement or contract, execute any instrument,
4 and perform any act or thing necessary or convenient to, directly
5 or indirectly, secure the bank's bonds, the bonds issued by a special
6 purpose trust, or a sponsor's obligations to the bank or to a special
7 purpose trust, including, but not limited to, bonds of a sponsor
8 purchased by the bank or a special purpose trust for retention or
9 sale, with funds or moneys that are legally available and that are
10 due or payable to the sponsor by reason of any grant, allocation,
11 apportionment or appropriation of the state or agencies thereof, to
12 the extent that the Controller shall be the custodian at any time of
13 these funds or moneys, or with funds or moneys that are or will
14 be legally available to the sponsor, the bank, or the state or any
15 agencies thereof by reason of any grant, allocation, apportionment,
16 or appropriation of the federal government or agencies thereof;
17 and in the event of written notice that the sponsor has not paid or
18 is in default on its obligations to the bank or a special purpose
19 trust, direct the Controller to withhold payment of those funds or
20 moneys from the sponsor over which it is or will be custodian and
21 to pay the same to the bank or special purpose trust or their
22 assignee, or direct the state or any agencies thereof to which any
23 grant, allocation, apportionment or appropriation of the federal
24 government or agencies thereof is or will be legally available to
25 pay the same upon receipt by the bank or special purpose trust or
26 their assignee, until the default has been cured and the amounts
27 then due and unpaid have been paid to the bank or special purpose
28 trust or their assignee, or until arrangements satisfactory to the
29 bank or special purpose trust have been made to cure the default.

30 (s) Enter into any agreement or contract, execute any instrument,
31 and perform any act or thing necessary, convenient, or appropriate
32 to carry out any power expressly given to the bank by this division,
33 including, but not limited to, agreements for the sale of all or any
34 part, including principal, interest, redemption rights or any other
35 rights or obligations, of bonds of the bank or of a special purpose
36 trust, liquidity agreements, contracts commonly known as interest
37 rate swap agreements, forward payment conversion agreements,
38 futures or contracts providing for payments based on levels of, or
39 changes in, interest rates or currency exchange rates, or contracts
40 to exchange cash-flows or a series of payments, or contracts,

1 including options, puts or calls to hedge payments, rate, spread,
2 currency exchange, or similar exposure, or any other financial
3 instrument commonly known as a structured financial product.

4 (t) Purchase, with the proceeds of the bank's bonds, transition
5 property or bonds issued by, or for the benefit of, any sponsor in
6 connection with a project, pursuant to a bond purchase agreement
7 or otherwise. Bonds or transition property purchased pursuant to
8 this division may be held by the bank, pledged or assigned by the
9 bank, or sold to public or private purchasers at public or negotiated
10 sale, in whole or in part, separately or together with other bonds
11 issued by the bank, and notwithstanding any other provision of
12 law, may be bought by the bank at private sale.

13 (u) Enter into purchase and sale agreements with all entities,
14 public and private, including state and local government pension
15 funds, with respect to the sale or purchase of ~~bonds or transition~~
16 ~~property.~~ *bonds.*

17 (v) Invest any moneys held in reserve or sinking funds, or any
18 moneys not required for immediate use or disbursement, in
19 obligations that are authorized by law for the investment of trust
20 funds in the custody of the Treasurer.

21 (w) Authorize a special purpose trust or trusts to purchase or
22 retain, with the proceeds of the bonds of a special purpose trust,
23 transition property or bonds issued by, or for the benefit of, any
24 sponsor in connection with a project or issued by the bank or a
25 special purpose trust, pursuant to a bond purchase agreement or
26 otherwise. Bonds or transition property purchased pursuant to this
27 title may be held by a special purpose entity, pledged or assigned
28 by a special purpose entity, or sold to public or private purchasers
29 at public or negotiated sale, in whole or in part, with or without
30 structuring, subordination or credit enhancement, separately or
31 together with other bonds issued by a special purpose trust, and
32 notwithstanding any other provision of law, may be bought by the
33 bank or by a special purpose trust at private sale.

34 (x) Approve the issuance of any bonds, notes, or other evidences
35 of indebtedness by the Rural Economic Development Infrastructure
36 Panel, established pursuant to Section 15373.7.

37 ~~(y) Approve the issuance of rate reduction bonds by an entity~~
38 ~~other than the bank or a special purpose trust to acquire transition~~
39 ~~property upon approval of the transaction in a financing order by~~
40 ~~the Public Utilities Commission, as provided in Article 5.5~~

1 (~~commencing with Section 840~~) of Chapter 4 of Part 1 of Division
2 ~~1 of the Public Utilities Code.~~

3 (~~z~~)

4 (y) Apply for and accept subventions, grants, loans, advances,
5 and contributions from any source of money, property, labor, or
6 other things of value. The sources may include bond proceeds,
7 dedicated taxes, state appropriations, federal appropriations, federal
8 grant and loan funds, public and private sector retirement system
9 funds, and proceeds of loans from the Pooled Money Investment
10 Account.

11 (~~aa~~)

12 (z) Do all things necessary and convenient to carry out its
13 purposes and exercise its powers, provided, however, that nothing
14 herein shall be construed to authorize the bank to engage directly
15 in the business of a manufacturing, industrial, real estate
16 development, or nongovernmental service enterprise. Further, the
17 bank shall not be organized to accept deposits of money for time
18 or demand deposits or to constitute a bank or trust company.

19 *SEC. 5. Section 63041.5 of the Government Code is amended*
20 *to read:*

21 63041.5. (a) It is the intent of the Legislature to provide a
22 one-time appropriation for financial assistance to local government
23 to meet capital outlay and infrastructure needs.

24 (b) From the funds appropriated in Item 2920-111-0001 of the
25 Budget Act of 1999, the sum of four hundred twenty-five million
26 dollars (\$425,000,000) shall be available for financial assistance,
27 including, but not limited to, leveraged revolving fund loans, to
28 local government sponsors for public development facilities, as
29 specified in subdivision ~~(q)~~ (p) of Section 63010 of the Government
30 Code.

31 (c) From the funds appropriated in Item 2920-111-0001 of the
32 Budget Act of 1999 and in Item 2920-111-0001 of the Budget Act
33 of 1998 (Chapter 324 of the Statutes of 1998), the California
34 Infrastructure and Economic Development Bank shall make no
35 single loan in excess of 10 percent of the combined amount of
36 these appropriations to the bank unless approved by unanimous
37 consent of the membership of the Board of Directors of the
38 California Infrastructure and Economic Development Bank and
39 the Director of Finance provides a 30-day written notice to the

1 Chairperson and Vice-Chairperson of the Joint Legislative Budget
2 Committee.

3 *SEC. 6. Article 4 (commencing with Section 63042) of Chapter*
4 *2 of Division 1 of Title 6.7 of the Government Code is repealed.*

5 *SEC. 7. Section 63043 of the Government Code is amended to*
6 *read:*

7 63043. Notwithstanding any other provision of this division,
8 Article 3 (commencing with Section 63040) ~~and Article 4~~
9 ~~(commencing with Section 63042)~~, shall not apply to any conduit
10 financing for economic development facilities by the bank directly
11 for the benefit of a participating party.

12 *SEC. 8. Section 63048.3 of the Government Code is amended*
13 *to read:*

14 63048.3. Notwithstanding any other provision of this division,
15 Article 3 (commencing with Section ~~63040~~), ~~Article 4~~
16 ~~(commencing with Article 63042)~~, 63040) and Article 5
17 (commencing with Section 63043) do not apply to any financing
18 provided by the bank to, or at the request of, the board in
19 connection with the revolving fund.

20 *SEC. 9. Section 63048.56 of the Government Code is amended*
21 *to read:*

22 63048.56. Notwithstanding any other law, Article 3
23 (commencing with Section ~~63040~~), ~~Article 4 (commencing with~~
24 ~~Section 63042)~~, 63040) and Article 5 (commencing with Section
25 63043) shall not apply to any financing provided by the bank to,
26 or at the request of, the department in connection with the revolving
27 fund.

28 *SEC. 10. Section 63048.7 of the Government Code is amended*
29 *to read:*

30 63048.7. Notwithstanding any other provision of this division,
31 Article 3 (commencing with Section ~~63040~~), ~~Article 4~~
32 ~~(commencing with Section 63042)~~, 63040) and Article 5
33 (commencing with Section 63043) do not apply to any bonds issued
34 by the special purpose trust established by this article. All matters
35 authorized in this article are in addition to powers granted to the
36 bank in this division.

37 *SEC. 11. Section 63049.2 of the Government Code is amended*
38 *to read:*

39 63049.2. Notwithstanding any other provision of this division,
40 Article 3 (commencing with Section ~~63040~~), ~~Article 4~~

1 (~~commencing with Section 63042~~), 63040) and Article 5
 2 (commencing with Section 63043) do not apply to any bonds issued
 3 by the special purpose trust established by this article. All matters
 4 authorized in this article are in addition to powers granted to the
 5 bank in this division.

6 *SEC. 12. Section 63049.62 of the Government Code is amended*
 7 *to read:*

8 63049.62. Notwithstanding any other provision of this division,
 9 a financing of the costs of claims of insolvent insurers upon the
 10 request of the association pursuant to Section 1063.73 of the
 11 Insurance Code shall be deemed to be in the public interest and
 12 eligible for financing by the bank, and Article 3 (commencing with
 13 Section 63040), ~~Article 4 (commencing with Section 63042)~~,
 14 Article 5 (commencing with Section 63043), Article 6
 15 (commencing with Section 63048), and Article 7 (commencing
 16 with Section 63049) shall not apply to the financing provided by
 17 the bank to, or at the request of, the association or the department
 18 in connection with the fund. Notwithstanding any other provision
 19 of this division, the bank shall have no authority over any matter
 20 that is subject to the approval of the Insurance Commissioner under
 21 Article 14.2 (commencing with Section 1063) of Chapter 1 of Part
 22 2 of Division 1 of the Insurance Code.

23 *SEC. 13. Section 63049.64 of the Government Code is amended*
 24 *to read:*

25 63049.64. (a) The bank may issue bonds pursuant to Chapter
 26 5 (commencing with Section 63070) and may loan the proceeds
 27 thereof to the association, and deposit the proceeds into a separate
 28 account in the fund, or use the proceeds to refund bonds previously
 29 issued under this article. Bond proceeds may also be used to fund
 30 necessary reserves, capitalized interest, credit enhancement costs,
 31 or costs of issuance.

32 (b) Bonds issued under this article shall not be deemed to
 33 constitute a debt or liability of the state or of any political
 34 subdivision thereof, other than the bank, or a pledge of the faith
 35 and credit of the state or of any political subdivision, but shall be
 36 payable solely from the fund and other revenues and assets securing
 37 the bonds. All bonds issued under this article shall contain on the
 38 face of the bonds a statement to that effect.

39 (c) For purposes of this article, the term “project,” as defined
 40 in subdivision ~~(p)~~ (o) of Section 63010, shall include financing of

1 the costs of claims of insolvent workers' compensation insurers,
2 in an amount (together with associated costs of financing) that
3 may be determined by the association in making a request for
4 financing to the bank.

5 *SEC. 14. Section 63049.67 of the Government Code is amended*
6 *to read:*

7 63049.67. (a) Notwithstanding any other provision of this
8 division, a financing of emergency apportionments upon the request
9 of a school district pursuant to Article 2.7 (commencing with
10 Section 41329.50) of Chapter 3 of Part 24 of Division 3 of Title
11 2 of the Education Code, is deemed to be in the public interest and
12 eligible for financing by the bank. Article 3 (commencing with
13 Section ~~63040~~), Article 4 (commencing with Section ~~63042~~;
14 ~~63040~~) and Article 5 (commencing with Section 63043) do not
15 apply to the financing provided by the bank in connection with an
16 emergency apportionment.

17 (b) The bank may issue bonds pursuant to Chapter 5
18 (commencing with Section 63070) and provide the proceeds to a
19 school district pursuant to a lease agreement. The proceeds may
20 be used as an emergency apportionment, to reimburse the interim
21 emergency apportionment from the General Fund authorized
22 pursuant to subdivision (b) of Section 41329.52 of the Education
23 Code, or to refund bonds previously issued under this section.
24 Bond proceeds may also be used to fund necessary reserves,
25 capitalized interest, credit enhancement costs, and costs of issuance.

26 (c) Bonds issued under this article are not deemed to constitute
27 a debt or liability of the state or of any political subdivision of the
28 state, other than a limited obligation of the bank, or a pledge of
29 the faith and credit of the state or of any political subdivision. All
30 bonds issued under this article shall contain on the face of the
31 bonds a statement to the same effect.

32 (d) Any fund or account established in connection with the
33 bonds shall be established outside of the centralized treasury
34 system. Notwithstanding any other law, the bank shall select the
35 financing team and the trustee for the bonds, and the trustee shall
36 be a corporation or banking association authorized to exercise
37 corporate trust powers.

38 (e) Pursuant to Section 41329.55 of the Education Code, a school
39 district other than the Compton Community College District shall
40 instruct the Controller to repay the lease from moneys in the State

1 School Fund and the Education Protection Account designated for
2 apportionment to the school district. Pursuant to Section 41329.55
3 of the Education Code, if the school district is the Compton
4 Community College District, the Controller shall be instructed to
5 repay the lease from moneys in Section B of the State School Fund.
6 Any amounts necessary to make this repayment shall be drawn
7 from the total statewide funding available for community college
8 apportionment consisting of funds in Section B of the State School
9 Fund. Thereafter the Controller shall transfer to Section B of the
10 State School Fund, either in a single or multiple transfers, an
11 amount equal to the total repayment, which amount shall be
12 transferred from the amount designated for apportionment to the
13 Compton Community College District from the State School Fund.
14 If these transfers from the district prove inadequate to repay any
15 repayments for any reason, the Compton Community College
16 District is required to use any revenue sources available to it for
17 transfer and repayment purposes.

18 (f) Notwithstanding any other law, as long as any bonds issued
19 pursuant to this section are outstanding, the following requirements
20 apply:

21 (1) The school district for which the bonds were issued is not
22 eligible to be a debtor in a case under Chapter 9 of the United
23 States Bankruptcy Code, as it may be amended from time to time,
24 and no governmental officer or organization is or may be
25 empowered to authorize the school district to be a debtor under
26 that chapter.

27 (2) It is the intent of the Legislature that the Legislature should
28 not in the future abolish the Compton Community College District
29 or take any action that would prevent the Compton Community
30 College from entering into or performing binding agreements or
31 invalidate any prior binding agreements of the Compton
32 Community College District, where invalidation may have a
33 material adverse effect on the bonds issued pursuant to this section.

34 (3) The Compton Community College District shall not be
35 reorganized or merged with another community college district
36 unless all of the following apply:

37 (A) The successor district becomes by operation of law the
38 owner of all property previously owned by the Compton
39 Community College District.

1 (B) Any agreement entered into by the Compton Community
2 College District in connection with bonds issued pursuant to this
3 section are assumed by the successor district.

4 (C) The apportionment authorized by subdivision (e) remains
5 in effect.

6 (D) Receipt by the bank of an opinion of bond counsel that the
7 bonds issued for the Compton Community College District will
8 remain tax exempt following the reorganization or merger.

9 (g) Nothing in this section limits the authority of the Legislature
10 to abolish the Compton Community College District when bonds
11 issued for that district are no longer outstanding. Further, the
12 Legislature may provide for the redemption or defeasance of the
13 bonds at any time so that no bonds are outstanding. If the
14 Legislature provides for the redemption or defeasance of the bonds
15 issued for the Compton Community College District in order to
16 abolish that district, it is the intent of the Legislature that the funds
17 required for the redemption or defeasance should be appropriated
18 from Section B of the State School Fund.

19 (h) The bank may enter into contracts or agreements with banks,
20 insurers, or other financial institutions or parties that it determines
21 are necessary or desirable to improve the security and marketability
22 of, or to manage interest rates or other risks associated with, the
23 bonds issued pursuant to this section. The bank may pledge
24 apportionments made by the Controller directly to the bond trustee
25 pursuant to Section 41329.55 of the Education Code as security
26 for repayment of any obligation owed to a bank, insurer, or other
27 financial institution pursuant to this subdivision.

28 *SEC. 15. Section 63071 of the Government Code is amended*
29 *to read:*

30 63071. (a) Notwithstanding any other provision of law, but
31 consistent with Sections 1 and 18 of Article XVI of the California
32 Constitution, a sponsor may issue bonds for purchase by the bank
33 pursuant to a bond purchase agreement. The bank may issue bonds
34 or authorize a special purpose trust to issue bonds. These bonds
35 may be issued pursuant to the charter of any city or any city and
36 county that authorized the issuance of these bonds as a sponsor
37 and may also be issued by any sponsor pursuant to the Revenue
38 Bond Law of 1941 (Chapter 6 (commencing with Section 54300)
39 of Division 2 of Title 5) to pay the costs and expenses pursuant to
40 this title, subject to the following conditions:

1 (1) With the prior approval of the bank, the sponsor may sell
2 these bonds in any manner as it may determine, either by private
3 sale or by means of competitive bid.

4 (2) Notwithstanding Section 54418, the bonds may be sold at
5 a discount at any rate as the bank and sponsor shall determine.

6 (3) Notwithstanding Section 54402, the bonds shall bear interest
7 at any rate and be payable at any time as the sponsor shall
8 determine with the consent of the bank.

9 (b) The total amount of bonds issued to finance public
10 development facilities that may be outstanding at any one time
11 under this chapter shall not exceed five billion dollars
12 (\$5,000,000,000). ~~The total amount of rate reduction bonds that~~
13 ~~may be outstanding at any one time under this chapter shall not~~
14 ~~exceed ten billion dollars (\$10,000,000,000).~~

15 (c) Bonds for which moneys or securities have been deposited
16 in trust, in amounts necessary to pay or redeem the principal,
17 interest, and any redemption premium thereon, shall be deemed
18 not to be outstanding for purposes of this section.

19 *SEC. 16. Section 330 of the Public Utilities Code is repealed.*

20 ~~330. In order to provide guidance in carrying out this chapter,~~
21 ~~the Legislature finds and declares all of the following:~~

22 ~~(a) It is the intent of the Legislature that a cumulative rate~~
23 ~~reduction of at least 20 percent be achieved not later than April 1,~~
24 ~~2002, for residential and small commercial customers, from the~~
25 ~~rates in effect on June 10, 1996. In determining that the April 1,~~
26 ~~2002, rate reduction has been met, the commission shall exclude~~
27 ~~the costs of the competitively procured electricity and the costs~~
28 ~~associated with the rate reduction bonds, as defined in Section~~
29 ~~840.~~

30 ~~(b) The people, businesses, and institutions of California spend~~
31 ~~nearly twenty-three billion dollars (\$23,000,000,000) annually on~~
32 ~~electricity, so that reductions in the price of electricity would~~
33 ~~significantly benefit the economy of the state and its residents.~~

34 ~~(c) The Public Utilities Commission has opened rulemaking~~
35 ~~and investigation proceedings with regard to restructuring~~
36 ~~California's electric power industry and reforming utility~~
37 ~~regulation.~~

38 ~~(d) The commission has found, after an extensive public review~~
39 ~~process, that the interests of ratepayers and the state as a whole~~
40 ~~will be best served by moving from the regulatory framework~~

1 existing on January 1, 1997, in which retail electricity service is
2 provided principally by electrical corporations subject to an
3 obligation to provide ultimate consumers in exclusive service
4 territories with reliable electric service at regulated rates, to a
5 framework under which competition would be allowed in the
6 supply of electric power and customers would be allowed to have
7 the right to choose their supplier of electric power.

8 (e) Competition in the electric generation market will encourage
9 innovation, efficiency, and better service from all market
10 participants, and will permit the reduction of costly regulatory
11 oversight.

12 (f) The delivery of electricity over transmission and distribution
13 systems is currently regulated, and will continue to be regulated
14 to ensure system safety, reliability, environmental protection, and
15 fair access for all market participants.

16 (g) Reliable electric service is of utmost importance to the safety,
17 health, and welfare of the state's citizenry and economy. It is the
18 intent of the Legislature that electric industry restructuring should
19 enhance the reliability of the interconnected regional transmission
20 systems, and provide strong coordination and enforceable protocols
21 for all users of the power grid.

22 (h) It is important that sufficient supplies of electric generation
23 will be available to maintain the reliable service to the citizens and
24 businesses of the state.

25 (i) Reliable electric service depends on conscientious inspection
26 and maintenance of transmission and distribution systems. To
27 continue and enhance the reliability of the delivery of electricity,
28 the Independent System Operator and the commission, respectively,
29 should set inspection, maintenance, repair, and replacement
30 standards.

31 (j) It is the intent of the Legislature that California enter into a
32 compact with western region states. That compact should require
33 the publicly and investor-owned utilities located in those states,
34 that sell energy to California retail customers, to adhere to
35 enforceable standards and protocols to protect the reliability of the
36 interconnected regional transmission and distribution systems.

37 (k) In order to achieve meaningful wholesale and retail
38 competition in the electric generation market, it is essential to do
39 all of the following:

- 1 ~~(1) Separate monopoly utility transmission functions from~~
2 ~~competitive generation functions, through development of~~
3 ~~independent, third-party control of transmission access and pricing.~~
4 ~~(2) Permit all customers to choose from among competing~~
5 ~~suppliers of electric power.~~
6 ~~(3) Provide customers and suppliers with open,~~
7 ~~nondiscriminatory, and comparable access to transmission and~~
8 ~~distribution services.~~
9 ~~(l) The commission has properly concluded that:~~
10 ~~(1) This competition will best be introduced by the creation of~~
11 ~~an Independent System Operator and an independent Power~~
12 ~~Exchange.~~
13 ~~(2) Generation of electricity should be open to competition.~~
14 ~~(3) There is a need to ensure that no participant in these new~~
15 ~~market institutions has the ability to exercise significant market~~
16 ~~power so that operation of the new market institutions would be~~
17 ~~distorted.~~
18 ~~(4) These new market institutions should commence~~
19 ~~simultaneously with the phase in of customer choice, and the public~~
20 ~~will be best served if these institutions and the nonbypassable~~
21 ~~transition cost recovery mechanism referred to in subdivisions (s)~~
22 ~~to (w), inclusive, are in place simultaneously and no later than~~
23 ~~January 1, 1998.~~
24 ~~(m) It is the intention of the Legislature that California's publicly~~
25 ~~owned electric utilities and investor-owned electric utilities should~~
26 ~~commit control of their transmission facilities to the Independent~~
27 ~~System Operator. These utilities should jointly advocate to the~~
28 ~~Federal Energy Regulatory Commission a pricing methodology~~
29 ~~for the Independent System Operator that results in an equitable~~
30 ~~return on capital investment in transmission facilities for all~~
31 ~~Independent System Operator participants.~~
32 ~~(n) Opportunities to acquire electric power in the competitive~~
33 ~~market must be available to California consumers as soon as~~
34 ~~practicable, but no later than January 1, 1998, so that all customers~~
35 ~~can share in the benefits of competition.~~
36 ~~(o) Under the existing regulatory framework, California's~~
37 ~~electrical corporations were granted franchise rights to provide~~
38 ~~electricity to consumers in their service territories.~~
39 ~~(p) Consistent with federal and state policies, California~~
40 ~~electrical corporations invested in power plants and entered into~~

1 contractual obligations in order to provide reliable electrical service
2 on a nondiscriminatory basis to all consumers within their service
3 territories who requested service.

4 (q) ~~The cost of these investments and contractual obligations
5 are currently being recovered in electricity rates charged by
6 electrical corporations to their consumers.~~

7 (r) ~~Transmission and distribution of electric power remain
8 essential services imbued with the public interest that are provided
9 over facilities owned and maintained by the state's electrical
10 corporations.~~

11 (s) ~~It is proper to allow electrical corporations an opportunity
12 to continue to recover, over a reasonable transition period, those
13 costs and categories of costs for generation-related assets and
14 obligations, including costs associated with any subsequent
15 renegotiation or buyout of existing generation-related contracts,
16 that the commission, prior to December 20, 1995, had authorized
17 for collection in rates and that may not be recoverable in market
18 prices in a competitive generation market, and appropriate additions
19 incurred after December 20, 1995, for capital additions to
20 generating facilities existing as of December 20, 1995, that the
21 commission determines are reasonable and should be recovered,
22 provided that the costs are necessary to maintain those facilities
23 through December 31, 2001. In determining the costs to be
24 recovered, it is appropriate to net the negative value of above
25 market assets against the positive value of below market assets.~~

26 (t) ~~The transition to a competitive generation market should be
27 orderly, protect electric system reliability, provide the investors
28 in these electrical corporations with a fair opportunity to fully
29 recover the costs associated with commission approved
30 generation-related assets and obligations, and be completed as
31 expeditiously as possible.~~

32 (u) ~~The transition to expanded customer choice, competitive
33 markets, and performance based ratemaking as described in
34 Decision 95-12-063, as modified by Decision 96-01-009, of the
35 Public Utilities Commission, can produce hardships for employees
36 who have dedicated their working lives to utility employment. It
37 is preferable that any necessary reductions in the utility workforce
38 directly caused by electrical restructuring, be accomplished through
39 offers of voluntary severance, retraining, early retirement,
40 outplacement, and related benefits. Whether workforce reductions~~

1 are voluntary or involuntary, reasonable costs associated with these
2 sorts of benefits should be included in the competition transition
3 charge.

4 ~~(v) Charges associated with the transition should be collected~~
5 ~~over a specific period of time on a nonbypassable basis and in a~~
6 ~~manner that does not result in an increase in rates to customers of~~
7 ~~electrical corporations. In order to insulate the policy of~~
8 ~~nonbypassability against incursions, if exemptions from the~~
9 ~~competition transition charge are granted, a firewall shall be created~~
10 ~~that segregates recovery of the cost of exemptions as follows:~~

11 ~~(1) The cost of the competition transition charge exemptions~~
12 ~~granted to members of the combined class of residential and small~~
13 ~~commercial customers shall be recovered only from those~~
14 ~~customers.~~

15 ~~(2) The cost of the competition transition charge exemptions~~
16 ~~granted to members of the combined class of customers other than~~
17 ~~residential and small commercial customers shall be recovered~~
18 ~~only from those customers. The commission shall retain existing~~
19 ~~cost allocation authority provided that the firewall and rate freeze~~
20 ~~principles are not violated.~~

21 ~~(w) It is the intent of the Legislature to require and enable~~
22 ~~electrical corporations to monetize a portion of the competition~~
23 ~~transition charge for residential and small commercial consumers~~
24 ~~so that these customers will receive rate reductions of no less than~~
25 ~~10 percent for 1998 continuing through 2002. Electrical~~
26 ~~corporations shall, by June 1, 1997, or earlier, secure the means~~
27 ~~to finance the competition transition charge by applying~~
28 ~~concurrently for financing orders from the Public Utilities~~
29 ~~Commission and for rate reduction bonds from the California~~
30 ~~Infrastructure and Economic Development Bank.~~

31 ~~(x) California's public utility electrical corporations provide~~
32 ~~substantial benefits to all Californians, including employment and~~
33 ~~support of the state's economy. Restructuring the electric services~~
34 ~~industry pursuant to the act that added this chapter will continue~~
35 ~~these benefits, and will also offer meaningful and immediate rate~~
36 ~~reductions for residential and small commercial customers, and~~
37 ~~facilitate competition in the supply of electric power.~~

38 *SEC. 17. Section 331 of the Public Utilities Code is amended*
39 *to read:*

1 331. The definitions set forth in this section shall govern the
2 construction of this chapter.

3 (a) “Aggregator” means any marketer, broker, public agency,
4 city, county, or special district, that combines the loads of multiple
5 end-use customers in facilitating the sale and purchase of electric
6 energy, transmission, and other services on behalf of these
7 customers.

8 (b) “Broker” means an entity that arranges the sale and purchase
9 of electric energy, transmission, and other services between buyers
10 and sellers, but does not take title to any of the power sold.

11 (c) “Direct transaction” means a contract between any one or
12 more electric generators, marketers, or brokers of electric power
13 and one or more retail customers providing for the purchase and
14 sale of electric power or any ancillary services.

15 (d) “Fire wall” means the line of demarcation separating
16 residential and small commercial customers from all other
17 ~~customers as described in subdivision (e) of Section 367.~~
18 *customers.*

19 (e) “Marketer” means any entity that buys electric energy,
20 transmission, and other services from traditional utilities and other
21 suppliers, and then resells those services at wholesale or to an
22 end-use customer.

23 (f) “Microgeneration facility” means a cogeneration facility
24 of less than one megawatt.

25 ~~(g) “Restructuring trusts” means the two tax-exempt public
26 benefit trusts established by Decision 96-08-038 of the Public
27 Utilities Commission to provide for design and development of
28 the hardware and software systems for the Power Exchange and
29 the Independent System Operator, respectively, and that may
30 undertake other activities, as needed, as ordered by the commission.~~

31 ~~(h)~~

32 (g) “Small commercial customer” means a customer that has a
33 maximum peak demand of less than 20 kilowatts.

34 **SECTION 4.**

35 *SEC. 18.* Section 332.1 of the Public Utilities Code is amended
36 to read:

37 332.1. (a) (1) It is the intent of the Legislature to enact Item
38 1 (revised) on the commission’s August 21, 2000, agenda, entitled
39 “Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021

1 to Regarding Interim Rate Caps for San Diego Gas and Electric
2 Company,” as modified below.

3 (2) It is also the intent of the Legislature that to the extent that
4 the Federal Energy Regulatory Commission orders refunds to
5 electrical corporations pursuant to their findings, the commission
6 shall ensure that any refunds are returned to customers.

7 (b) The commission shall establish a ceiling of six and
8 five-tenths cents (\$0.065) per kilowatthour on the energy
9 component of electric bills for electricity supplied to residential,
10 small commercial, and street lighting customers by the San Diego
11 Gas and Electric Company, through December 31, 2002, retroactive
12 to June 1, 2000. If the commission finds it in the public interest,
13 this ceiling may be extended through December 2003 and may be
14 adjusted as provided in subdivision (d).

15 (c) The commission shall establish an accounting procedure to
16 track and recover reasonable and prudent costs of providing electric
17 energy to retail customers unrecovered through retail bills due to
18 the application of the ceiling provided for in subdivision (b). The
19 accounting procedure shall utilize revenues associated with sales
20 of energy from utility-owned or managed generation assets to
21 offset an undercollection, if undercollection occurs. The accounting
22 procedure shall be reviewed periodically by the commission, but
23 not less frequently than semiannually. The commission may utilize
24 an existing proceeding to perform the review. The accounting
25 procedure and review shall provide a reasonable opportunity for
26 San Diego Gas and Electric Company to recover its reasonable
27 and prudent costs of service over a reasonable period of time.

28 (d) If the commission determines that it is in the public interest
29 to do so, the commission, after the date of the completion of the
30 proceeding described in subdivision (g), may adjust the ceiling
31 from the level specified in subdivision (b), and may adjust the
32 frozen rate from the levels specified in subdivision (f), consistent
33 with the Legislature’s intent to provide substantial protections for
34 customers of the San Diego Gas and Electric Company and their
35 interest in just and reasonable rates and adequate service.

36 (e) For purposes of this section, “small commercial customer”
37 includes, but is not limited to, all San Diego Gas and Electric
38 Company accounts on Rate Schedule A of the San Diego Gas and
39 Electric Company, all accounts of customers who are “general
40 acute care hospitals,” as defined in Section 1250 of the Health and

1 Safety Code, all San Diego Gas and Electric Company accounts
2 of customers who are public or private schools for pupils in
3 kindergarten or any of grades 1 to 12, inclusive, and all accounts
4 on Rate Schedule AL-TOU under 100 kilowatts.

5 (f) The commission shall establish an initial frozen rate of six
6 and five-tenths cents (\$0.065) per kilowatthour on the energy
7 component of electric bills for electricity supplied to all customers
8 by the San Diego Gas and Electric Company not subject to
9 subdivision (b), for the time period ending with the end of the rate
10 freeze for the Pacific Gas and Electric Company and the Southern
11 California Edison Company, retroactive to February 7, 2001. The
12 commission shall consider the comparable energy components of
13 rates for comparable customer classes served by the Pacific Gas
14 and Electric Company and the Southern California Edison
15 Company and, if it determines it to be in the public interest, the
16 commission may adjust this frozen rate, and may do so, retroactive
17 to the date that rate increases took effect for customers of Pacific
18 Gas and Electric Company and Southern California Edison
19 Company pursuant to the commission's March 27, 2001, decision.
20 The commission shall determine the Fixed Department of Water
21 Resources Set-Aside pursuant to Section 360.5 for customers
22 subject to this section, reflecting a retail rate consistent with the
23 rate for the energy component of electric bills as determined in
24 this subdivision, in place of the retail rate in effect on January 5,
25 2001. This section shall be construed to modify the payment
26 provisions, but may not be construed to modify the electric
27 procurement obligations of the Department of Water Resources,
28 pursuant to any contract or agreement in accordance with Division
29 27 (commencing with Section 80000) of the Water Code, and in
30 effect as of February 7, 2001, between the Department of Water
31 Resources and San Diego Gas and Electric Company.

32 (g) The commission shall institute a proceeding to examine the
33 prudence and reasonableness of the San Diego Gas and Electric
34 Company in the procurement of wholesale energy on behalf of its
35 customers, for a period beginning, at the latest, on June 1, 2000.
36 If the commission finds that San Diego Gas and Electric Company
37 acted imprudently or unreasonably, the commission shall issue
38 orders that it determines to be appropriate affecting the retail rates
39 of San Diego Gas and Electric Company customers including, but
40 not limited to, refunds.

1 (h) Nothing in this section may be construed to limit the
2 authority of the Department of Water Resources pursuant to
3 Division 27 (commencing with Section 80000) of the Water Code.

4 *SEC. 19. Section 335 of the Public Utilities Code is repealed.*

5 ~~335. In order to ensure that the interests of the people of~~
6 ~~California are served, a five-member Electricity Oversight Board~~
7 ~~is hereby created as provided in Section 336. For purposes of this~~
8 ~~chapter, any reference to the Oversight Board shall mean the~~
9 ~~Electricity Oversight Board. Its functions shall be all of the~~
10 ~~following:~~

11 ~~(a) To oversee the Independent System Operator and the Power~~
12 ~~Exchange.~~

13 ~~(b) To determine the composition and terms of service and to~~
14 ~~exercise the exclusive right to decline to confirm the appointments~~
15 ~~of specific members of the governing board of the Power Exchange.~~

16 ~~(c) To serve as an appeal board for majority decisions of the~~
17 ~~Independent System Operator governing board, as they relate to~~
18 ~~matters subject to exclusive state jurisdiction, as specified in~~
19 ~~Section 339.~~

20 ~~(d) Those members of the Power Exchange governing board~~
21 ~~whose appointments the Oversight Board has the exclusive right~~
22 ~~to decline to confirm include proposed governing board members~~
23 ~~representing agricultural end users, industrial end users,~~
24 ~~commercial end users, residential end users, end users at large,~~
25 ~~nonmarket participants, and public interest groups.~~

26 ~~(e) To investigate any matter related to the wholesale market~~
27 ~~for electricity to ensure that the interests of California's citizens~~
28 ~~and consumers are served, protected, and represented in relation~~
29 ~~to the availability of electric transmission and generation and~~
30 ~~related costs, during periods of peak demand.~~

31 *SEC. 20. Section 336 of the Public Utilities Code is repealed.*

32 ~~336. (a) The five-member Oversight Board shall be comprised~~
33 ~~as follows:~~

34 ~~(1) Three members, who are California residents and electricity~~
35 ~~ratepayers, appointed by the Governor from a list jointly provided~~
36 ~~by the California Energy Resources Conservation and Development~~
37 ~~Commission and the Public Utilities Commission, and subject to~~
38 ~~confirmation by the Senate.~~

39 ~~(2) One member of the Assembly appointed by the Speaker of~~
40 ~~the Assembly.~~

1 ~~(3) One member of the Senate appointed by the Senate~~
2 ~~Committee on Rules.~~

3 ~~(b) Legislative members shall be nonvoting members, however,~~
4 ~~they are otherwise full members of the board with all rights and~~
5 ~~privileges pertaining thereto.~~

6 ~~(c) Oversight Board members shall serve three-year terms with~~
7 ~~no limit on reappointment. For purposes of the initial appointments~~
8 ~~set forth in paragraph (1), the Governor shall appoint one member~~
9 ~~to a one-year term, one to a two-year term, and one to a three-year~~
10 ~~term.~~

11 ~~(d) The Governor shall designate one of the voting members as~~
12 ~~the chairperson of the Oversight Board who shall preside over~~
13 ~~meetings and direct the executive director in the routine~~
14 ~~administration of the Oversight Board's business. The chairperson~~
15 ~~may designate one of the other voting members to preside over~~
16 ~~meetings in the absence of the chairperson.~~

17 ~~(e) Two voting members shall constitute a quorum. Any decision~~
18 ~~or action of the Oversight Board shall be by majority vote of the~~
19 ~~voting members.~~

20 ~~(f) The members of the Oversight Board shall serve without~~
21 ~~compensation, but shall be reimbursed for all necessary expenses~~
22 ~~incurred in the performance of their duties.~~

23 *SEC. 21. Section 337 of the Public Utilities Code is amended*
24 *to read:*

25 337. (a) The Independent System Operator governing board
26 shall be composed of a five-member independent governing board
27 of directors appointed by the Governor and subject to confirmation
28 by the Senate. Any reference in this chapter or in any other
29 provision of law to the Independent System Operator governing
30 board means the independent governing board appointed under
31 this subdivision.

32 (b) A member of the independent governing board appointed
33 under subdivision (a) may not be affiliated with any actual or
34 potential participant in any market administered by the Independent
35 System Operator.

36 (c) (1) All appointments shall be for three-year terms.

37 (2) There is no limit on the number of terms that may be served
38 by any member.

39 ~~(d) The Oversight Board shall require the articles of~~
40 ~~incorporation and bylaws of the Independent System Operator to~~

1 be revised in accordance with this section, and shall make filings
2 with the Federal Energy Regulatory Commission as the Oversight
3 Board determines to be necessary.

4 (e)

5 (d) For the purposes of the initial appointments to the
6 Independent System Operator governing board, as provided in
7 subdivision (a), the Governor shall appoint one member to a
8 one-year term, two members to a two-year term, and two members
9 to a three-year term.

10 *SEC. 22. Section 338 of the Public Utilities Code is repealed.*

11 ~~338. The Oversight Board shall have the exclusive right to~~
12 ~~approve procedures and the qualifications for Power Exchange~~
13 ~~governing board members specified in subdivision (d) of Section~~
14 ~~335, all of whom shall be required to be electricity customers in~~
15 ~~the area served by the Power Exchange. The Power Exchange~~
16 ~~governing board shall include, but not be limited to, representatives~~
17 ~~of investor-owned electric distribution companies, publicly owned~~
18 ~~electric distribution companies, nonutility generators, public buyers~~
19 ~~and sellers, private buyers and sellers, industrial end-users,~~
20 ~~commercial end-users, residential end-users, agricultural end-users,~~
21 ~~public interest groups, and nonmarket participant representatives.~~
22 ~~The structural composition of the Power Exchange governing~~
23 ~~board existing on July 1, 1999, shall remain in effect until an~~
24 ~~agreement with a participating state is legally in effect. However,~~
25 ~~prior to such an agreement, California shall retain the right to~~
26 ~~change the Power Exchange governing board into a nonstakeholder~~
27 ~~board. In the event of such a legislative change, revised bylaws~~
28 ~~shall be filed with the Federal Energy Regulatory Commission~~
29 ~~under Section 205 of the Federal Power Act (16 U.S.C.A. Sec.~~
30 ~~824d).~~

31 *SEC. 23. Section 339 of the Public Utilities Code is amended*
32 *to read:*

33 ~~339. (a) The Oversight Board is the appeal board for majority~~
34 ~~decisions of the Independent System Operator governing board~~
35 ~~relating to matters that are identified in subdivision (b) as they~~
36 ~~pertain to the Independent System Operator.~~

37 ~~(b) The following matters are subject to California's exclusive~~
38 ~~jurisdiction:~~

39 ~~339. The following matters are subject to California's exclusive~~
40 ~~jurisdiction:~~

- 1 ~~(1)~~
- 2 (a) Selections by California of governing board members, as
- 3 described in ~~Sections 335, 337, and 338. Section 337.~~
- 4 ~~(2)~~
- 5 (b) Matters pertaining to retail electric service or retail sales of
- 6 electric energy.
- 7 ~~(3)~~
- 8 (c) Ensuring that the purposes and functions of the Independent
- 9 System Operator ~~and Power Exchange~~ are consistent with the
- 10 purposes and functions of California nonprofit public benefit
- 11 corporations, including duties of care and conflict of interest
- 12 standards for directors of the corporations.
- 13 ~~(4)~~
- 14 (d) State functions assigned to the Independent System Operator
- 15 ~~and Power Exchange~~ under state law.
- 16 ~~(5)~~
- 17 (e) Open meeting standards and meeting notice requirements.
- 18 ~~(6)~~
- 19 (f) Appointment of advisory representatives representing state
- 20 interests.
- 21 ~~(7)~~
- 22 (g) Public access to corporate records.
- 23 ~~(8)~~
- 24 (h) The amendment of bylaws relevant to these matters.
- 25 ~~(e) Only members of the Independent System Operator~~
- 26 ~~governing board may appeal a majority decision of the Independent~~
- 27 ~~System Operator related to any of the matters specified in~~
- 28 ~~subdivision (b) to the Oversight Board.~~
- 29 SEC. 24. *Section 340 of the Public Utilities Code is repealed.*
- 30 ~~340. The Oversight Board shall take the steps that are necessary~~
- 31 ~~to ensure the earliest possible incorporation of the Independent~~
- 32 ~~System Operator and the Power Exchange as separately~~
- 33 ~~incorporated public benefit, nonprofit corporations under the~~
- 34 ~~Corporations Code.~~
- 35 SEC. 25. *Section 341 of the Public Utilities Code is repealed.*
- 36 ~~341. The Oversight Board may do all of the following:~~
- 37 ~~(a) Meet at the times and places it may deem proper.~~
- 38 ~~(b) Accept appropriations, grants, or contributions from any~~
- 39 ~~public source, private foundation, or individual.~~
- 40 ~~(c) Sue and be sued.~~

- 1 ~~(d) Contract with state, local, or federal agencies for services~~
- 2 ~~or work required by the Oversight Board.~~
- 3 ~~(e) Contract for or employ any services or work required by the~~
- 4 ~~Oversight Board that in its opinion cannot satisfactorily be~~
- 5 ~~performed by its staff or by other state agencies.~~
- 6 ~~(f) Appoint advisory committees from members of other public~~
- 7 ~~agencies and private groups or individuals.~~
- 8 ~~(g) As a body, or on the authorization of the Oversight Board,~~
- 9 ~~as a subcommittee composed of one or more members, hold~~
- 10 ~~hearings at the times and places it may deem proper.~~
- 11 ~~(h) Issue subpoenas to compel the production of books, records,~~
- 12 ~~papers, accounts, reports, and documents and the attendance of~~
- 13 ~~witnesses.~~
- 14 ~~(i) Administer oaths.~~
- 15 ~~(j) Adopt or amend rules and regulations to carry out the~~
- 16 ~~purposes and provisions of this chapter, and to govern the~~
- 17 ~~procedures of the Oversight Board.~~
- 18 ~~(k) Exercise any authority consistent with this chapter delegated~~
- 19 ~~to it by a federal agency or authorized to it by federal law.~~
- 20 ~~(l) Make recommendations to the Governor and the Legislature~~
- 21 ~~at the time or times the Oversight Board deems necessary.~~
- 22 ~~(m) Participate in proceedings relevant to the purposes of this~~
- 23 ~~chapter or to the purposes of Division 4.9 (commencing with~~
- 24 ~~Section 9600) or, as part of any coordinated effort by the state,~~
- 25 ~~participate in activities to promote the formation of interstate~~
- 26 ~~agreements to enhance the reliability and function of the electricity~~
- 27 ~~system and the electricity market.~~
- 28 ~~(n) Do any and all other things necessary to carry out the~~
- 29 ~~purposes of this chapter.~~
- 30 *SEC. 26. Section 341.1 of the Public Utilities Code is repealed.*
- 31 ~~341.1. Regulations adopted within 120 days of the effective~~
- 32 ~~date of this section may be adopted as emergency regulations in~~
- 33 ~~accordance with Chapter 3.5 (commencing with Section 11340)~~
- 34 ~~of the Government Code, and for the purposes of that chapter,~~
- 35 ~~including Section 11349.6 of the Government Code, the adoption~~
- 36 ~~of the regulations shall be considered by the Office of~~
- 37 ~~Administrative Law to be necessary for the immediate preservation~~
- 38 ~~of the public peace, health, safety, and general welfare.~~
- 39 *SEC. 27. Section 341.2 of the Public Utilities Code is repealed.*

1 ~~341.2. The Bagley-Keene Open Meeting Act (Article 9~~
2 ~~(commencing with Section 11120) of Chapter 1 of Part 1 of~~
3 ~~Division 3 of Title 2 of the Government Code) applies to meetings~~
4 ~~of the Oversight Board. In addition to the allowances of that act,~~
5 ~~the Oversight Board may hold a closed session to consider the~~
6 ~~appointment of one or more candidates to the governing board of~~
7 ~~the Power Exchange, deliberate on matters involving the removal~~
8 ~~of a member of the governing board of the Power Exchange, or to~~
9 ~~consider a matter based on information that has received a grant~~
10 ~~of confidential status pursuant to regulations of the Oversight~~
11 ~~Board, provided that any action taken on such a matter shall be~~
12 ~~taken by vote in an open session.~~

13 ~~SEC. 28. Section 341.3 of the Public Utilities Code is repealed.~~

14 ~~341.3. Voting members of the Oversight Board shall be~~
15 ~~required to file financial disclosure statements with the Fair~~
16 ~~Political Practices Commission. The appointing authority for voting~~
17 ~~members shall avoid appointing persons with conflicts of interest.~~

18 ~~SEC. 29. Section 341.4 of the Public Utilities Code is repealed.~~

19 ~~341.4. The Oversight Board shall appoint, and fix the salary~~
20 ~~of, an executive director who shall have charge of administering~~
21 ~~the affairs of the Oversight Board, including entering into contracts,~~
22 ~~subject to the direction and policies of the Oversight Board.~~
23 ~~Notwithstanding Sections 11042 and 11043 of the Government~~
24 ~~Code, the Oversight Board shall appoint an attorney who shall~~
25 ~~advise the Oversight Board and each member and represent the~~
26 ~~Oversight Board as a party in any state or federal action or~~
27 ~~proceeding related to the purposes of this chapter or to an action~~
28 ~~of the Oversight Board and who shall perform generally all the~~
29 ~~duties of attorney to the Oversight Board. For purposes of this~~
30 ~~section, the Oversight Board may appoint a person exempt pursuant~~
31 ~~to subdivision (e) of Section 4 of Article VII of the California~~
32 ~~Constitution. The executive director shall, in accordance with~~
33 ~~Article VII of the California Constitution and subject to the~~
34 ~~approval of the Oversight Board, appoint employees as may be~~
35 ~~necessary to carry out the Oversight Board's duties and~~
36 ~~responsibilities.~~

37 ~~SEC. 30. Section 341.5 of the Public Utilities Code is amended~~
38 ~~to read:~~

39 ~~341.5. (a) The Independent System Operator and Power~~
40 ~~Exchange bylaws shall contain provisions that identify those~~

1 matters specified in ~~subdivision (b)~~ of Section 339 as matters within
2 state jurisdiction. The bylaws shall also contain provisions which
3 state that California's bylaws approval function with respect to
4 the matters specified in ~~subdivision (b)~~ of Section 339 shall not
5 preclude the Federal Energy Regulatory Commission from taking
6 any action necessary to address undue discrimination or other
7 violations of the Federal Power Act (16 U.S.C.A. Sec. 791a et
8 seq.) or to exercise any other commission responsibility under the
9 Federal Power Act. In taking any such action, the Federal Energy
10 Regulatory Commission shall give due respect to California's
11 jurisdictional interests in the functions of the Independent System
12 Operator ~~and Power Exchange~~ and to attempt to accommodate
13 state interests to the extent those interests are not inconsistent with
14 the Federal Energy Regulatory Commission's statutory
15 responsibilities. The bylaws shall state that any future agreement
16 regarding the apportionment of the Independent System Operator
17 ~~and Power Exchange~~ board appointment function among
18 participating states associated with the expansion of the
19 Independent System Operator ~~and Power Exchange~~ into multistate
20 entities shall be filed with the Federal Energy Regulatory
21 Commission pursuant to Section 205 of the Federal Power Act (16
22 U.S.C.A. Sec. 824d).

23 (b) Any necessary bylaw changes to implement the provisions
24 of Section ~~335, 337, 338, 339, 339~~ or subdivision (a) of this section,
25 or changes required pursuant to an agreement as contemplated by
26 subdivision (a) of this section with a participating state for a
27 regional organization, shall be effective upon approval of the
28 respective governing boards and the Oversight Board and
29 acceptance for filing by the Federal Energy Regulatory
30 Commission.

31 *SEC. 31. Section 348 of the Public Utilities Code is amended*
32 *to read:*

33 348. The Independent System Operator shall adopt inspection,
34 maintenance, repair, and replacement standards for the transmission
35 facilities under its ~~control no later than September 30, 1997.~~
36 *control*. The standards, which shall be performance or prescriptive
37 standards, or both, as appropriate, for each substantial type of
38 transmission equipment or facility, shall provide for high quality,
39 safe, and reliable service. In adopting its standards, the Independent
40 System Operator shall consider: cost, local geography and weather,

1 applicable codes, national electric industry practices, sound
2 engineering judgment, and experience. The Independent System
3 Operator shall also adopt standards for reliability, and safety during
4 periods of emergency and disaster. ~~The Independent System~~
5 ~~Operator shall report to the Oversight Board, at such times as the~~
6 ~~Oversight Board may specify, on the development and~~
7 ~~implementation of the standards in relation to facilities under the~~
8 ~~operational control of the Independent System Operator.~~ The
9 Independent System Operator shall require each transmission
10 facility owner or operator to report annually on its compliance
11 with the standards. That report shall be made available to the
12 public.

13 *SEC. 32. Section 349.5 of the Public Utilities Code is amended*
14 *to read:*

15 ~~349.5. (a) Beginning January 15, 2002, and at~~ *At least once*
16 ~~monthly thereafter, each month,~~ the Independent System Operator
17 shall notify each air pollution control district and air quality
18 management district of the name and address of each entity within
19 the district’s boundaries within the Independent System Operator’s
20 control area with whom the Independent System Operator enters
21 into an interruptible service contract or similar arrangement.

22 (b) For the purposes of this section, “interruptible service
23 contract or similar arrangement” means any arrangement in which
24 a nonresidential entity agrees to reduce or consider reducing its
25 electrical consumption during periods of peak demand or at the
26 request of the Independent System Operator in exchange for
27 compensation, or for assurances not to be blacked out or other
28 similar nonmonetary assurances.

29 (c) The local air pollution control district or air quality
30 management district shall maintain in a confidential manner the
31 information received pursuant to this section. However, nothing
32 in this subdivision shall affect the applicability of Chapter 3.5
33 (commencing with Section 6250) of Division 7 of Title 1 of the
34 Government Code, or of any other similar open records statute or
35 ordinance, to information provided pursuant to this section.

36 ~~SEC. 2.~~

37 *SEC. 33. Section 350 of the Public Utilities Code is repealed.*

38 *SEC. 34. Section 355 of the Public Utilities Code is repealed.*

1 ~~355. The Power Exchange shall provide an efficient competitive~~
2 ~~auction, open on a nondiscriminatory basis to all suppliers, that~~
3 ~~meets the loads of all exchange customers at efficient prices.~~

4 ~~SEC. 35. Section 356 of the Public Utilities Code is repealed.~~

5 ~~356. The Power Exchange governing board may form~~
6 ~~appropriate technical advisory committees comprised of market~~
7 ~~and nonmarket participants to advise the governing board on~~
8 ~~relevant issues.~~

9 ~~SEC. 36. Section 359 of the Public Utilities Code is amended~~
10 ~~to read:~~

11 359. (a) It is the intent of the Legislature to provide for the
12 evolution of the Independent System Operator ~~and the Power~~
13 ~~Exchange~~ into regional organizations to promote the development
14 of regional electricity transmission markets in the western states
15 and to improve the access of consumers served by the Independent
16 System Operator ~~and the Power Exchange~~ to those markets.

17 (b) The preferred means by which the voluntary evolution
18 described in subdivision (a) should occur is through the adoption
19 of a regional compact or other comparable agreement among
20 cooperating party states, the retail customers of which states would
21 reside within the geographic territories served by the Independent
22 System Operator ~~and the Power Exchange~~. *Operator.*

23 (c) The agreement described in subdivision (b) should provide
24 for all of the following:

25 (1) An equitable process for the appointment or confirmation
26 by party states of members of the governing boards of the
27 Independent System Operator ~~and the Power Exchange~~. *Operator.*

28 (2) A respecification of the size, structure, representation,
29 eligible membership, nominating procedures, and member terms
30 of service of the governing boards of the Independent System
31 Operator ~~and the Power Exchange~~. *Operator.*

32 (3) Mechanisms by which each party state, jointly or separately,
33 can oversee effectively the actions of the Independent System
34 Operator ~~and the Power Exchange~~ as those actions relate to the
35 assurance of electricity system reliability within the party state
36 and to matters that affect electricity sales to the retail customers
37 of the party state or otherwise affect the general welfare of the
38 electricity consumers and the general public of the party state.

39 (4) The adherence by publicly owned and investor-owned
40 utilities located in party states to enforceable standards and

1 protocols to protect the reliability of the interconnected regional
2 transmission and distribution systems.

3 *SEC. 37. Section 361 of the Public Utilities Code is repealed.*

4 ~~361. The commission shall ensure that any funds secured by
5 the restructuring trusts established for the purposes of developing
6 the Independent System Operator and the Power Exchange shall
7 be placed at the disposal of the Independent System Operator and
8 the Power Exchange respectively.~~

9 *SEC. 38. Section 363 of the Public Utilities Code is repealed.*

10 ~~363. (a) In order to ensure the continued safe and reliable
11 operation of public utility electric generating facilities, the
12 commission shall require in any proceeding under Section 851
13 involving the sale, but not spinoff, of a public utility electric
14 generating facility, for transactions initiated prior to December 31,
15 2001, and approved by the commission by December 31, 2002,
16 that the selling utility contract with the purchaser of the facility
17 for the selling utility, an affiliate, or a successor corporation to
18 operate and maintain the facility for at least two years. The
19 commission may require these conditions to be met for transactions
20 initiated on or after January 1, 2002. The commission shall require
21 the contracts to be reasonable for both the seller and the buyer.~~

22 ~~(b) Subdivision (a) shall apply only if the facility is actually
23 operated during the two-year period following the sale. Subdivision
24 (a) shall not require the purchaser to operate a facility, nor shall it
25 preclude a purchaser from temporarily closing the facility to make
26 capital improvements.~~

27 ~~(c) For those bayside fossil fueled electric generation and
28 associated transmission facilities that an electrical corporation has
29 proposed to divest in a public auction and for which the Legislature
30 has appropriated state funds in the Budget Act of 1998 to assist
31 local governmental entities in acquiring the facilities or to mitigate
32 environmental and community issues, and where the local
33 governmental entity proposes that the closure of the power plant
34 would serve the public interest by mitigating air, water and other
35 environmental, health and safety, and community impacts
36 associated with the facilities, and where the local governmental
37 entity and electrical corporation have engaged in significant
38 negotiations with the purpose of shutting down the power plant,
39 and where there is an agreement between the electrical corporation
40 and the local governmental entity for closure of the facilities or~~

1 for the local governmental entity to acquire the facilities, the
2 commission shall approve the closure of these facilities or the
3 transfer of these electric generation and associated transmission
4 facilities to the local governmental entity and shall consider the
5 utility transactions with the community to be just and reasonable
6 for its ratepayers. For purposes of calculating the Competition
7 Transition Charge, the commission shall not use any inferred
8 market value for the facilities predicated on the continued use of
9 the plant, the construction of successor facilities or alternative use
10 of the site and shall net the costs of the depreciated book value of
11 the power plant and the unrecovered costs of decommissioning,
12 environmental remediation and site restoration against the net
13 proceeds received from the local governmental entity for the
14 acquisition or closure of the facilities. Thereafter, any net proceeds
15 received from the ultimate disposition, by the electrical corporation,
16 of the site shall be credited to recovery of Competition Transition
17 Charges.

18 *SEC. 39. Section 364 of the Public Utilities Code is amended*
19 *to read:*

20 364. (a) The commission shall adopt inspection, maintenance,
21 repair, and replacement standards for the distribution systems of
22 investor-owned electric utilities no later than March 31, 1997.
23 *utilities.* The standards, which shall be performance or prescriptive
24 standards, or both, as appropriate, for each substantial type of
25 distribution equipment or facility, shall provide for high quality,
26 safe and reliable service.

27 (b) In setting its standards, the commission shall consider: cost,
28 local geography and weather, applicable codes, national electric
29 industry practices, sound engineering judgment, and experience.
30 The commission shall also adopt standards for operation, reliability,
31 and safety during periods of emergency and disaster. The
32 commission shall require each utility to report annually on its
33 compliance with the standards. That report shall be made available
34 to the public.

35 (c) The commission shall conduct a review to determine whether
36 the standards prescribed in this section have been met. If the
37 commission finds that the standards have not been met, the
38 commission may order appropriate sanctions, including penalties
39 in the form of rate reductions or monetary fines. The review shall
40 be performed after every major outage. Any money collected

1 pursuant to this subdivision shall be used to offset funding for the
2 California Alternative Rates for Energy Program.

3 *SEC. 40. Section 365 of the Public Utilities Code is amended*
4 *to read:*

5 365. ~~The actions of the commission pursuant to this chapter~~
6 ~~shall be consistent with the findings and declarations contained in~~
7 ~~Section 330. In addition, the commission shall do all of the~~
8 following:

9 (a) Facilitate the efforts of the state's electrical corporations to
10 develop and obtain authorization from the Federal Energy
11 Regulatory Commission for the creation and operation of an
12 Independent System Operator and an independent Power Exchange,
13 *Operator*, for the determination of which transmission and
14 distribution facilities are subject to the exclusive jurisdiction of
15 the ~~commission, and for approval, to the extent necessary, of the~~
16 ~~cost recovery mechanism established as provided in Sections 367~~
17 ~~to 376, inclusive. commission.~~ The commission shall also
18 participate fully in all proceedings before the Federal Energy
19 Regulatory Commission in connection with the Independent
20 System Operator and the independent Power Exchange, and shall
21 encourage the Federal Energy Regulatory Commission to adopt
22 protocols and procedures that strengthen the reliability of the
23 interconnected transmission grid, encourage all publicly owned
24 utilities in California to become full participants, and maximize
25 enforceability of such protocols and procedures by all market
26 participants.

27 (b) (1) Authorize direct transactions between electricity
28 suppliers and end use customers, subject to implementation of the
29 ~~nonbypassable charge referred to in Sections 367 to 376, inclusive.~~
30 ~~competition transition charges.~~ Direct transactions shall commence
31 simultaneously with the start of an Independent System Operator
32 and Power Exchange referred to in subdivision (a). The
33 simultaneous commencement shall occur as soon as practicable,
34 but no later than January 1, 1998. The commission shall develop
35 a phase-in schedule at the conclusion of which all customers shall
36 have the right to engage in direct transactions. Any phase-in of
37 customer eligibility for direct transactions ordered by the
38 commission shall be equitable to all customer classes and
39 accomplished as soon as practicable, consistent with operational

1 and other technological considerations, and shall be completed for
2 all customers by January 1, 2002.

3 (2) Customers shall be eligible for direct access irrespective of
4 any direct access phase-in implemented pursuant to this section if
5 at least one-half of that customer’s electrical load is supplied by
6 energy from a renewable resource provider certified pursuant to
7 Section 383, provided however that nothing in this section shall
8 provide for direct access for electric consumers served by municipal
9 utilities unless so authorized by the governing board of that
10 municipal utility.

11 ~~SEC. 3. Section 367 of the Public Utilities Code is amended~~
12 ~~to read:~~

13 ~~367. The commission shall identify and determine those costs~~
14 ~~and categories of costs for generation-related assets and obligations,~~
15 ~~consisting of generation facilities, generation-related regulatory~~
16 ~~assets, nuclear settlements, and power purchase contracts,~~
17 ~~including, but not limited to, restructurings, renegotiations or~~
18 ~~terminations thereof approved by the commission, that were being~~
19 ~~collected in commission-approved rates on December 20, 1995,~~
20 ~~and that may become uneconomic as a result of a competitive~~
21 ~~generation market, in that these costs may not be recoverable in~~
22 ~~market prices in a competitive market, and appropriate costs~~
23 ~~incurred after December 20, 1995, for capital additions to~~
24 ~~generating facilities existing as of December 20, 1995, that the~~
25 ~~commission determines are reasonable and should be recovered,~~
26 ~~provided that these additions are necessary to maintain the facilities~~
27 ~~through December 31, 2001. These uneconomic costs shall include~~
28 ~~transition costs as defined in subdivision (f) of Section 840, and~~
29 ~~shall be recovered from all customers or in the case of fixed~~
30 ~~transition amounts, from the customers specified in subdivision~~
31 ~~(a) of Section 841, on a nonbypassable basis and shall:~~

32 ~~(a) Be amortized over a reasonable time period, including~~
33 ~~collection on an accelerated basis, consistent with not increasing~~
34 ~~rates for any rate schedule, contract, or tariff option above the~~
35 ~~levels in effect on June 10, 1996; provided that, the recovery shall~~
36 ~~not extend beyond December 31, 2001, except as follows:~~

37 ~~(1) Costs associated with employee-related transition costs shall~~
38 ~~continue until fully collected; provided, however, that the cost~~
39 ~~collection shall not extend beyond December 31, 2006.~~

- 1 ~~(2) Power purchase contract obligations shall continue for the~~
2 ~~duration of the contract. Costs associated with any buy-out,~~
3 ~~buy-down, or renegotiation of the contracts shall continue to be~~
4 ~~collected for the duration of any agreement governing the buy-out,~~
5 ~~buy-down, or renegotiated contract; provided, however, no power~~
6 ~~purchase contract shall be extended as a result of the buy-out,~~
7 ~~buy-down, or renegotiation.~~
- 8 ~~(3) Costs associated with contracts approved by the commission~~
9 ~~to settle issues associated with the Biennial Resource Plan Update~~
10 ~~may be collected through March 31, 2002; provided that only 80~~
11 ~~percent of the balance of the costs remaining after December 31,~~
12 ~~2001, shall be eligible for recovery.~~
- 13 ~~(4) Nuclear incremental cost incentive plans for the San Onofre~~
14 ~~nuclear generating station shall continue for the full term as~~
15 ~~authorized by the commission in Decision 96-01-011 and Decision~~
16 ~~96-04-059; provided that the recovery shall not extend beyond~~
17 ~~December 31, 2003.~~
- 18 ~~(5) Costs associated with the exemptions provided in subdivision~~
19 ~~(a) of Section 374 may be collected through March 31, 2002,~~
20 ~~provided that only fifty million dollars (\$50,000,000) of the balance~~
21 ~~of the costs remaining after December 31, 2001, shall be eligible~~
22 ~~for recovery.~~
- 23 ~~(6) Fixed transition amounts, as defined in subdivision (d) of~~
24 ~~Section 840, may be recovered from the customers specified in~~
25 ~~subdivision (a) of Section 841 until all rate reduction bonds~~
26 ~~associated with the fixed transition amounts have been paid in full~~
27 ~~by the financing entity.~~
- 28 ~~(b) Be based on a calculation mechanism that nets the negative~~
29 ~~value of all above market utility-owned generation-related assets~~
30 ~~against the positive value of all below market utility-owned~~
31 ~~generation related assets. For those assets subject to valuation, the~~
32 ~~valuations used for the calculation of the uneconomic portion of~~
33 ~~the net book value shall be determined not later than December~~
34 ~~31, 2001, and shall be based on appraisal, sale, or other divestiture.~~
35 ~~The commission's determination of the costs eligible for recovery~~
36 ~~and of the valuation of those assets at the time the assets are~~
37 ~~exposed to market risk or retired, in a proceeding under Section~~
38 ~~455.5, 851, or otherwise, shall be final, and notwithstanding Section~~
39 ~~1708 or any other provision of law, may not be rescinded, altered~~
40 ~~or amended.~~

1 ~~(e) Be limited in the case of utility-owned fossil generation to~~
2 ~~the uneconomic portion of the net book value of the fossil capital~~
3 ~~investment existing as of January 1, 1998, and appropriate costs~~
4 ~~incurred after December 20, 1995, for capital additions to~~
5 ~~generating facilities existing as of December 20, 1995, that the~~
6 ~~commission determines are reasonable and should be recovered,~~
7 ~~provided that the additions are necessary to maintain the facilities~~
8 ~~through December 31, 2001. All “going forward costs” of fossil~~
9 ~~plant operation, including operation and maintenance,~~
10 ~~administrative and general, fuel and fuel transportation costs, shall~~
11 ~~be recovered solely from independent Power Exchange revenues~~
12 ~~or from contracts with the Independent System Operator, provided~~
13 ~~that for the purposes of this chapter, the following costs may be~~
14 ~~recoverable pursuant to this section:~~

15 ~~(1) Commission-approved operating costs for particular~~
16 ~~utility-owned fossil powerplants or units, at particular times when~~
17 ~~reactive power/voltage support is not yet procurable at~~
18 ~~market-based rates in locations where it is deemed needed for the~~
19 ~~reactive power/voltage support by the Independent System~~
20 ~~Operator, provided that the units are otherwise authorized to~~
21 ~~recover market-based rates and provided further that for an~~
22 ~~electrical corporation that is also a gas corporation and that serves~~
23 ~~at least four million customers as of December 20, 1995, the~~
24 ~~commission shall allow the electrical corporation to retain any~~
25 ~~earnings from operations of the reactive power/voltage support~~
26 ~~plants or units and shall not require the utility to apply any portions~~
27 ~~to offset recovery of transition costs. Cost recovery under the cost~~
28 ~~recovery mechanism shall end on December 31, 2001.~~

29 ~~(2) An electrical corporation that, as of December 20, 1995,~~
30 ~~served at least four million customers, and that was also a gas~~
31 ~~corporation that served less than four thousand customers, may~~
32 ~~recover, pursuant to this section, 100 percent of the uneconomic~~
33 ~~portion of the fixed costs paid under fuel and fuel transportation~~
34 ~~contracts that were executed prior to December 20, 1995, and were~~
35 ~~subsequently determined to be reasonable by the commission, or~~
36 ~~100 percent of the buy-down or buy-out costs associated with the~~
37 ~~contracts to the extent the costs are determined to be reasonable~~
38 ~~by the commission.~~

39 ~~(d) Be adjusted throughout the period through March 31, 2002,~~
40 ~~to track accrual and recovery of costs provided for in this~~

1 subdivision. Recovery of costs prior to December 31, 2001, shall
2 include a return as provided for in Decision 95-12-063, as modified
3 by Decision 96-01-009, together with associated taxes.

4 (e) (1) Be allocated among the various classes of customers,
5 rate schedules, and tariff options to ensure that costs are recovered
6 from these classes, rate schedules, contract rates, and tariff options,
7 including self-generation deferral, interruptible, and standby rate
8 options in substantially the same proportion as similar costs are
9 recovered as of June 10, 1996, through the regulated retail rates
10 of the relevant electric utility, provided that there shall be a firewall
11 segregating the recovery of the costs of competition transition
12 charge exemptions such that the costs of competition transition
13 charge exemptions granted to members of the combined class of
14 residential and small commercial customers shall be recovered
15 only from these customers, and the costs of competition transition
16 charge exemptions granted to members of the combined class of
17 customers, other than residential and small commercial customers,
18 shall be recovered only from these customers.

19 (2) Individual customers shall not experience rate increases as
20 a result of the allocation of transition costs. However, customers
21 who elect to purchase energy from suppliers other than the Power
22 Exchange through a direct transaction, may incur increases in the
23 total price they pay for electricity to the extent the price for the
24 energy exceeds the Power Exchange price.

25 (3) The commission shall retain existing cost allocation
26 authority, provided the firewall and rate freeze principles are not
27 violated.

28 *SEC. 41. Section 367 of the Public Utilities Code is repealed.*

29 367. The commission shall identify and determine those costs
30 and categories of costs for generation-related assets and obligations,
31 consisting of generation facilities, generation-related regulatory
32 assets, nuclear settlements, and power purchase contracts,
33 including, but not limited to, restructurings, renegotiations or
34 terminations thereof approved by the commission, that were being
35 collected in commission-approved rates on December 20, 1995,
36 and that may become uneconomic as a result of a competitive
37 generation market, in that these costs may not be recoverable in
38 market prices in a competitive market, and appropriate costs
39 incurred after December 20, 1995, for capital additions to
40 generating facilities existing as of December 20, 1995, that the

1 ~~commission determines are reasonable and should be recovered,~~
2 ~~provided that these additions are necessary to maintain the facilities~~
3 ~~through December 31, 2001. These uneconomic costs shall include~~
4 ~~transition costs as defined in subdivision (f) of Section 840, and~~
5 ~~shall be recovered from all customers or in the case of fixed~~
6 ~~transition amounts, from the customers specified in subdivision~~
7 ~~(a) of Section 841, on a nonbypassable basis and shall:~~

8 ~~(a) Be amortized over a reasonable time period, including~~
9 ~~collection on an accelerated basis, consistent with not increasing~~
10 ~~rates for any rate schedule, contract, or tariff option above the~~
11 ~~levels in effect on June 10, 1996; provided that, the recovery shall~~
12 ~~not extend beyond December 31, 2001, except as follows:~~

13 ~~(1) Costs associated with employee-related transition costs as~~
14 ~~set forth in subdivision (b) of Section 375 shall continue until fully~~
15 ~~collected; provided, however, that the cost collection shall not~~
16 ~~extend beyond December 31, 2006.~~

17 ~~(2) Power purchase contract obligations shall continue for the~~
18 ~~duration of the contract. Costs associated with any buy-out,~~
19 ~~buy-down, or renegotiation of the contracts shall continue to be~~
20 ~~collected for the duration of any agreement governing the buy-out,~~
21 ~~buy-down, or renegotiated contract; provided, however, no power~~
22 ~~purchase contract shall be extended as a result of the buy-out,~~
23 ~~buy-down, or renegotiation.~~

24 ~~(3) Costs associated with contracts approved by the commission~~
25 ~~to settle issues associated with the Biennial Resource Plan Update~~
26 ~~may be collected through March 31, 2002; provided that only 80~~
27 ~~percent of the balance of the costs remaining after December 31,~~
28 ~~2001, shall be eligible for recovery.~~

29 ~~(4) Nuclear incremental cost incentive plans for the San Onofre~~
30 ~~nuclear generating station shall continue for the full term as~~
31 ~~authorized by the commission in Decision 96-01-011 and Decision~~
32 ~~96-04-059; provided that the recovery shall not extend beyond~~
33 ~~December 31, 2003.~~

34 ~~(5) Costs associated with the exemptions provided in subdivision~~
35 ~~(a) of Section 374 may be collected through March 31, 2002,~~
36 ~~provided that only fifty million dollars (\$50,000,000) of the balance~~
37 ~~of the costs remaining after December 31, 2001, shall be eligible~~
38 ~~for recovery.~~

39 ~~(6) Fixed transition amounts, as defined in subdivision (d) of~~
40 ~~Section 840, may be recovered from the customers specified in~~

1 ~~subdivision (a) of Section 841 until all rate reduction bonds~~
2 ~~associated with the fixed transition amounts have been paid in full~~
3 ~~by the financing entity.~~

4 ~~(b) Be based on a calculation mechanism that nets the negative~~
5 ~~value of all above market utility-owned generation-related assets~~
6 ~~against the positive value of all below market utility-owned~~
7 ~~generation related assets. For those assets subject to valuation, the~~
8 ~~valuations used for the calculation of the uneconomic portion of~~
9 ~~the net book value shall be determined not later than December~~
10 ~~31, 2001, and shall be based on appraisal, sale, or other divestiture.~~
11 ~~The commission's determination of the costs eligible for recovery~~
12 ~~and of the valuation of those assets at the time the assets are~~
13 ~~exposed to market risk or retired, in a proceeding under Section~~
14 ~~455.5, 851, or otherwise, shall be final, and notwithstanding Section~~
15 ~~1708 or any other provision of law, may not be rescinded, altered~~
16 ~~or amended.~~

17 ~~(c) Be limited in the case of utility-owned fossil generation to~~
18 ~~the uneconomic portion of the net book value of the fossil capital~~
19 ~~investment existing as of January 1, 1998, and appropriate costs~~
20 ~~incurred after December 20, 1995, for capital additions to~~
21 ~~generating facilities existing as of December 20, 1995, that the~~
22 ~~commission determines are reasonable and should be recovered,~~
23 ~~provided that the additions are necessary to maintain the facilities~~
24 ~~through December 31, 2001. All "going forward costs" of fossil~~
25 ~~plant operation, including operation and maintenance,~~
26 ~~administrative and general, fuel and fuel transportation costs, shall~~
27 ~~be recovered solely from independent Power Exchange revenues~~
28 ~~or from contracts with the Independent System Operator, provided~~
29 ~~that for the purposes of this chapter, the following costs may be~~
30 ~~recoverable pursuant to this section:~~

31 ~~(1) Commission-approved operating costs for particular~~
32 ~~utility-owned fossil powerplants or units, at particular times when~~
33 ~~reactive power/voltage support is not yet procurable at~~
34 ~~market-based rates in locations where it is deemed needed for the~~
35 ~~reactive power/voltage support by the Independent System~~
36 ~~Operator, provided that the units are otherwise authorized to~~
37 ~~recover market-based rates and provided further that for an~~
38 ~~electrical corporation that is also a gas corporation and that serves~~
39 ~~at least four million customers as of December 20, 1995, the~~
40 ~~commission shall allow the electrical corporation to retain any~~

1 earnings from operations of the reactive power/voltage support
2 plants or units and shall not require the utility to apply any portions
3 to offset recovery of transition costs. Cost recovery under the cost
4 recovery mechanism shall end on December 31, 2001.

5 (2) ~~An electrical corporation that, as of December 20, 1995,~~
6 ~~served at least four million customers, and that was also a gas~~
7 ~~corporation that served less than four thousand customers, may~~
8 ~~recover, pursuant to this section, 100 percent of the uneconomic~~
9 ~~portion of the fixed costs paid under fuel and fuel transportation~~
10 ~~contracts that were executed prior to December 20, 1995, and were~~
11 ~~subsequently determined to be reasonable by the commission, or~~
12 ~~100 percent of the buy-down or buy-out costs associated with the~~
13 ~~contracts to the extent the costs are determined to be reasonable~~
14 ~~by the commission.~~

15 ~~(d) Be adjusted throughout the period through March 31, 2002,~~
16 ~~to track accrual and recovery of costs provided for in this~~
17 ~~subdivision. Recovery of costs prior to December 31, 2001, shall~~
18 ~~include a return as provided for in Decision 95-12-063, as modified~~
19 ~~by Decision 96-01-009, together with associated taxes.~~

20 ~~(e) (1) Be allocated among the various classes of customers,~~
21 ~~rate schedules, and tariff options to ensure that costs are recovered~~
22 ~~from these classes, rate schedules, contract rates, and tariff options,~~
23 ~~including self-generation deferral, interruptible, and standby rate~~
24 ~~options in substantially the same proportion as similar costs are~~
25 ~~recovered as of June 10, 1996, through the regulated retail rates~~
26 ~~of the relevant electric utility, provided that there shall be a firewall~~
27 ~~segregating the recovery of the costs of competition transition~~
28 ~~charge exemptions such that the costs of competition transition~~
29 ~~charge exemptions granted to members of the combined class of~~
30 ~~residential and small commercial customers shall be recovered~~
31 ~~only from these customers, and the costs of competition transition~~
32 ~~charge exemptions granted to members of the combined class of~~
33 ~~customers, other than residential and small commercial customers,~~
34 ~~shall be recovered only from these customers.~~

35 ~~(2) Individual customers shall not experience rate increases as~~
36 ~~a result of the allocation of transition costs. However, customers~~
37 ~~who elect to purchase energy from suppliers other than the Power~~
38 ~~Exchange through a direct transaction, may incur increases in the~~
39 ~~total price they pay for electricity to the extent the price for the~~
40 ~~energy exceeds the Power Exchange price.~~

1 ~~(3) The commission shall retain existing cost allocation~~
2 ~~authority, provided the firewall and rate freeze principles are not~~
3 ~~violated.~~

4 ~~SEC. 4.~~

5 ~~SEC. 42.~~ Section 367.7 of the Public Utilities Code is repealed.

6 ~~SEC. 5.~~

7 ~~SEC. 43.~~ Section 368 of the Public Utilities Code is repealed.

8 ~~SEC. 6.~~

9 ~~SEC. 44.~~ Section 368.5 of the Public Utilities Code is repealed.

10 ~~SEC. 7.~~

11 ~~SEC. 45.~~ Section 369 of the Public Utilities Code is amended
12 to read:

13 ~~369. The commission shall establish an effective mechanism~~
14 ~~that ensures recovery of transition costs referred to in Sections 367~~
15 ~~and 376, and Competition transition charges, subject to the~~
16 ~~conditions in Sections 371 to 374, inclusive, from the recovery of~~
17 ~~which was authorized by the commission prior to January 1, 2015,~~
18 ~~shall continue to apply to all existing and future consumers in the~~
19 ~~service territory in which the utility provided electricity services~~
20 ~~as of December 20, 1995; provided, that the costs shall not be~~
21 ~~recoverable for new customer load or incremental load of an~~
22 ~~existing customer where the load is being met through a direct~~
23 ~~transaction and the transaction does not otherwise require the use~~
24 ~~of transmission or distribution facilities owned by the utility.~~
25 ~~However, the obligation to pay the competition transition charges~~
26 ~~cannot be avoided by the formation of a local publicly owned~~
27 ~~electrical corporation on or after December 20, 1995, or by~~
28 ~~annexation of any portion of an electrical corporation's service~~
29 ~~area by an existing local publicly owned electric utility.~~

30 This section shall not apply to service taken under tariffs,
31 contracts, or rate schedules that are on file, accepted, or approved
32 by the Federal Energy Regulatory Commission, unless otherwise
33 authorized by the Federal Energy Regulatory Commission.

34 ~~SEC. 8.~~

35 ~~SEC. 46.~~ Section 370 of the Public Utilities Code is amended
36 to read:

37 370. The commission shall require, as a prerequisite for any
38 consumer in California to engage in direct transactions permitted
39 in Section 365, that beginning with the commencement of these
40 direct transactions, the consumer shall have an obligation to pay

1 ~~the costs provided in Sections 367 and 376, and subject~~ *competition*
 2 ~~transition charges, and subject~~ to the conditions in Sections 371
 3 to 374, inclusive, directly to the electrical corporation providing
 4 electricity service in the area in which the consumer is located.
 5 This obligation shall be set forth in the applicable rate schedule,
 6 contract, or tariff option under which the customer is receiving
 7 service from the electrical corporation. To the extent the consumer
 8 does not use the electrical corporation's facilities for direct
 9 transaction, the obligation to pay shall be confirmed in writing,
 10 and the customer shall be advised by any electricity marketer
 11 engaged in the transaction of the requirement that the customer
 12 execute a confirmation. The requirement for marketers to inform
 13 customers of the written requirement shall cease on January 1,
 14 2002.

15 ~~SEC. 9.~~

16 *SEC. 47.* Section 371 of the Public Utilities Code is amended
 17 to read:

18 371. (a) Except as provided in Sections 372 and 374, ~~the~~
 19 ~~uneconomic costs provided in Sections 367 and 376~~ *competition*
 20 *transition charges* shall be applied to each customer based on the
 21 amount of electricity purchased by the customer from an electrical
 22 corporation or alternate supplier of electricity, subject to changes
 23 in usage occurring in the normal course of business.

24 (b) Changes in usage occurring in the normal course of business
 25 are those resulting from changes in business cycles, termination
 26 of operations, departure from the utility service territory, weather,
 27 reduced production, modifications to production equipment or
 28 operations, changes in production or manufacturing processes,
 29 fuel switching, including installation of fuel cells pending a
 30 contrary determination by the ~~California Energy Resources~~
 31 ~~Conservation and Development Commission in Section 383,~~
 32 *Energy Commission*, enhancement or increased efficiency of
 33 equipment or performance of existing self-cogeneration equipment,
 34 replacement of existing cogeneration equipment with new power
 35 generation equipment of similar size as described in paragraph (1)
 36 of subdivision (a) of Section 372, installation of demand-side
 37 management equipment or facilities, energy conservation efforts,
 38 or other similar factors.

39 (c) Nothing in this section shall be interpreted to exempt or alter
 40 the obligation of a customer to comply with Chapter 5

1 (commencing with Section 119075) of Part 15 of Division 104 of
2 the Health and Safety Code. Nothing in this section shall be
3 construed as a limitation on the ability of residential customers to
4 alter their pattern of electricity purchases by activities on the
5 customer side of the meter.

6 ~~SEC. 40.~~

7 *SEC. 48.* Section 372 of the Public Utilities Code is amended
8 to read:

9 372. (a) It is the policy of the state to encourage and support
10 the development of cogeneration as an efficient, environmentally
11 beneficial, competitive energy resource that will enhance the
12 reliability of local generation supply, and promote local business
13 growth. Subject to the specific conditions provided in this section,
14 the commission shall determine the applicability to customers of
15 ~~uneconomic costs as specified in Sections 367 and 376.~~ *competition*
16 *transition charges.* Consistent with this state policy, the
17 commission shall provide that these costs shall not apply to any
18 of the following:

19 (1) To load served onsite or under an over the fence arrangement
20 by a nonmobile self-cogeneration or cogeneration facility that was
21 operational on or before December 20, 1995, or by increases in
22 the capacity of a facility to the extent that the increased capacity
23 was constructed by an entity holding an ownership interest in or
24 operating the facility and does not exceed 120 percent of the
25 installed capacity as of December 20, 1995, provided that prior to
26 June 30, 2000, the costs shall apply to over the fence arrangements
27 entered into after December 20, 1995, between unaffiliated parties.
28 For the purposes of this subdivision, “affiliated” means any person
29 or entity that directly, or indirectly through one or more
30 intermediaries, controls, is controlled by, or is under common
31 control with another specified entity. “Control” means either of
32 the following:

33 (A) The possession, directly or indirectly, of the power to direct
34 or to cause the direction of the management or policies of a person
35 or entity, whether through an ownership, beneficial, contractual,
36 or equitable interest.

37 (B) Direct or indirect ownership of at least 25 percent of an
38 entity, whether through an ownership, beneficial, or equitable
39 interest.

1 (2) To load served by onsite or under an over the fence
2 arrangement by a nonmobile self-cogeneration or cogeneration
3 facility for which the customer was committed to construction as
4 of December 20, 1995, provided that the facility was substantially
5 operational on or before January 1, 1998, or by increases in the
6 capacity of a facility to the extent that the increased capacity was
7 constructed by an entity holding an ownership interest in or
8 operating the facility and does not exceed 120 percent of the
9 installed capacity as of January 1, 1998, provided that prior to June
10 30, 2000, the costs shall apply to over the fence arrangements
11 entered into after December 20, 1995, between unaffiliated parties.

12 (3) To load served by existing, new, or portable emergency
13 generation equipment used to serve the customer's load
14 requirements during periods when utility service is unavailable,
15 provided the emergency generation is not operated in parallel with
16 the integrated electric grid, except on a momentary parallel basis.

17 (4) After June 30, 2000, to any load served onsite or under an
18 over the fence arrangement by any nonmobile self-cogeneration
19 or cogeneration facility.

20 (b) Further, consistent with state policy, with respect to
21 self-cogeneration or cogeneration deferral agreements, the
22 commission shall do the following:

23 (1) Provide that a utility shall execute a final self-cogeneration
24 or cogeneration deferral agreement with any customer that, on or
25 before December 20, 1995, had executed a letter of intent (or
26 similar documentation) to enter into the agreement with the utility,
27 provided that the final agreement shall be consistent with the terms
28 and conditions set forth in the letter of intent and the commission
29 shall review and approve the final agreement.

30 (2) Provide that a customer that holds a self-cogeneration or
31 cogeneration deferral agreement that was in place on or before
32 December 20, 1995, or that was executed pursuant to paragraph
33 (1) in the event the agreement expires, or is terminated, may do
34 any of the following:

35 (A) Continue through December 31, 2001, to receive utility
36 service at the rate and under terms and conditions applicable to
37 the customer under the deferral agreement that, as executed,
38 includes an allocation of uneconomic costs consistent with
39 subdivision (e) of Section 367.

1 (B) Engage in a direct transaction for the purchase of electricity
2 and pay uneconomic costs consistent with Sections 367 and 376.

3 (C) Construct a self-cogeneration or cogeneration facility of
4 approximately the same capacity as the facility previously deferred,
5 provided that the costs provided in Sections 367 and 376 shall
6 apply consistent with subdivision (e) of Section 367, unless
7 otherwise authorized by the commission pursuant to subdivision
8 (c).

9 (3) Subject to the firewall described in subdivision (e) of Section
10 367, provide that the ratemaking treatment for self-cogeneration
11 or cogeneration deferral agreements executed prior to December
12 20, 1995, or executed pursuant to paragraph (1) shall be consistent
13 with the ratemaking treatment for the contracts approved before
14 January 1995.

15 (c) The commission shall authorize, within 60 days of the receipt
16 of a joint application from the serving utility and one or more
17 interested parties, applicability conditions as follows:

18 (1) ~~The costs identified in Sections 367 and 376~~ *Competition*
19 *transition charges* shall not, prior to June 30, 2000, apply to load
20 served onsite by a nonmobile self-cogeneration or cogeneration
21 facility that became operational on or after December 20, 1995.

22 (2) ~~The costs identified in Sections 367 and 376~~ *Competition*
23 *transition charges* shall not, prior to June 30, 2000, apply to any
24 load served under over the fence arrangements entered into after
25 December 20, 1995, between unaffiliated entities.

26 (d) For the purposes of this subdivision, all onsite or over the
27 fence arrangements shall be consistent with Section 218 as it
28 existed on December 20, 1995.

29 (e) To facilitate the development of new microcogeneration
30 applications, electrical corporations may apply to the commission
31 for a financing order to finance the transition costs to be recovered
32 from customers employing the applications.

33 (f) To encourage the continued development, installation, and
34 interconnection of clean and efficient self-generation and
35 cogeneration resources, to improve system reliability for consumers
36 by retaining existing generation and encouraging new generation
37 to connect to the electric grid, and to increase self-sufficiency of
38 consumers of electricity through the deployment of self-generation
39 and cogeneration, both of the following shall occur:

1 (1) The commission and the Electricity Oversight Board shall
2 determine if any policy or action undertaken by the Independent
3 System Operator, directly or indirectly, unreasonably discourages
4 the connection of existing self-generation or cogeneration or new
5 self-generation or cogeneration to the grid.

6 (2) If the commission and the Electricity Oversight Board find
7 that any policy or action of the Independent System Operator
8 unreasonably discourages the connection of existing self-generation
9 or cogeneration or new self-generation or cogeneration to the grid,
10 the commission and the Electricity Oversight Board shall undertake
11 all necessary efforts to revise, mitigate, or eliminate that policy or
12 action of the Independent System Operator.

13 ~~SEC. 11. Section 373 of the Public Utilities Code is amended~~
14 ~~to read:~~

15 ~~373. (a) Electrical corporations may apply to the commission~~
16 ~~for an order determining that the costs identified in Sections 367~~
17 ~~and 376 not be collected from a particular class of customer or~~
18 ~~category of electricity consumption.~~

19 ~~(b) Subject to the fire wall specified in subdivision (e) of Section~~
20 ~~367, the provisions of this section and Sections 372 and 374 shall~~
21 ~~apply in the event the commission authorizes a nonbypassable~~
22 ~~charge prior to the implementation of an Independent System~~
23 ~~Operator and Power Exchange referred to in subdivision (a) of~~
24 ~~Section 365.~~

25 *SEC. 49. Section 373 of the Public Utilities Code is repealed.*

26 ~~373. (a) Electrical corporations may apply to the commission~~
27 ~~for an order determining that the costs identified in Sections 367,~~
28 ~~368, 375, and 376 not be collected from a particular class of~~
29 ~~customer or category of electricity consumption.~~

30 ~~(b) Subject to the fire wall specified in subdivision (e) of Section~~
31 ~~367, the provisions of this section and Sections 372 and 374 shall~~
32 ~~apply in the event the commission authorizes a nonbypassable~~
33 ~~charge prior to the implementation of an Independent System~~
34 ~~Operator and Power Exchange referred to in subdivision (a) of~~
35 ~~Section 365.~~

36 ~~SEC. 12.~~

37 *SEC. 50. Section 374 of the Public Utilities Code is amended*
38 *to read:*

39 374. (a) ~~In recognition of statutory authority and past~~
40 ~~investments existing as of December 20, 1995, and subject to the~~

1 ~~firewall specified in subdivision (e) of Section 367, the obligation~~
2 ~~to pay the uneconomic costs identified in Sections 367 and 376~~
3 ~~Competition transition charges~~ shall not apply to the following:

4 (1) One hundred ten megawatts of load served by irrigation
5 districts, as hereafter allocated by this paragraph:

6 (A) The 110 megawatts of load shall be allocated among the
7 service territories of the three largest electrical corporations in the
8 ratio of the number of irrigation districts in the service territory of
9 each utility to the total number of irrigation districts in the service
10 territories of all three utilities.

11 (B) The total amount of load allocated to each utility service
12 area shall be phased in over five years beginning January 1, 1997,
13 so that one-fifth of the allocation is allocated in each of the five
14 years. Any allocation that remains unused at the end of any year
15 shall be carried over to the succeeding year and added to the
16 allocation for that year.

17 (C) The load allocated to each utility service territory pursuant
18 to subparagraph (A) shall be further allocated among the respective
19 irrigation districts within that service territory by the California
20 Energy Resources Conservation and Development Commission.
21 An individual irrigation district requesting an allocation shall
22 submit to the commission by January 31, 1997, detailed plans that
23 show the load that it serves or will serve and for which it intends
24 to utilize the allocation within the timeframe requested. These
25 plans shall include specific information on the irrigation districts'
26 organization for electric distribution, contracts, financing and
27 engineering plans for capital facilities, as well as detailed
28 information about the loads to be served, and shall not be less than
29 eight megawatts or more than 40 megawatts, provided, however,
30 that any portion of the 110 megawatts that remains unallocated
31 may be reallocated to projects without regard to the 40 megawatts
32 limitation. In making an allocation among irrigation districts, the
33 Energy Resources Conservation and Development Commission
34 shall assess the viability of each submission and whether it can be
35 accomplished in the timeframe proposed. The Energy Resources
36 Conservation and Development Commission shall have the
37 discretion to allocate the load covered by this section in a manner
38 that best ensures its usage within the allocation period.

1 (D) At least 50 percent of each year's allocation to a district
2 shall be applied to that portion of load that is used to power pumps
3 for agricultural purposes.

4 (E) Any load pursuant to this subdivision shall be served by
5 distribution facilities owned by, or leased to, the district in question.

6 (F) Any load allocated pursuant to paragraph (1) shall be located
7 within the boundaries of the affected irrigation district, or within
8 the boundaries specified in an applicable service territory boundary
9 agreement between an electrical corporation and the affected
10 irrigation district; additionally, the provisions of subparagraph (C)
11 of paragraph (1) shall be applicable to any load within the Counties
12 of Stanislaus or San Joaquin, or both, served by any irrigation
13 district that is currently serving or will be serving retail customers.

14 (2) Seventy-five megawatts of load served by the Merced
15 Irrigation District hereafter prescribed in this paragraph:

16 (A) The total allocation provided by this paragraph shall be
17 phased in over five years beginning January 1, 1997, so that
18 one-fifth of the allocation is received in each of the five years. Any
19 allocation that remains unused at the end of any year shall be
20 carried over to the succeeding year and added to the allocation for
21 that year.

22 (B) Any load to which the provision of this paragraph is
23 applicable shall be served by distribution facilities owned by, or
24 leased to, Merced Irrigation District.

25 (C) A load to which the provisions of this paragraph are
26 applicable shall be located within the boundaries of Merced
27 Irrigation District as those boundaries existed on December 20,
28 1995, together with the territory of Castle Air Force Base that was
29 located outside of the district on that date.

30 (D) The total allocation provided by this paragraph shall be
31 phased in over five years beginning January 1, 1997, with the
32 exception of load already being served by the district as of June
33 1, 1996, which shall be deducted from the total allocation and shall
34 not be subject to ~~the costs provided in Sections 367 and 376.~~
35 *competition transition charges.*

36 (3) To loads served by irrigation districts, water districts, water
37 storage districts, municipal utility districts, and other water agencies
38 that, on December 20, 1995, were members of the Southern San
39 Joaquin Valley Power Authority, or the Eastside Power Authority,
40 provided, however, that this paragraph shall be applicable only to

1 that portion of each district or agency's load that is used to power
2 pumps that are owned by that district or agency as of December
3 20, 1995, or replacements thereof, and is being used to pump water
4 for district purposes. The rates applicable to these districts and
5 agencies shall be adjusted as of January 1, 1997.

6 (4) The provisions of this subdivision shall no longer be
7 operative after March 31, 2002.

8 (5) The provisions of paragraph (1) shall not be applicable to
9 any irrigation district, water district, or water agency described in
10 paragraph (2) or (3).

11 (6) Transmission services provided to any irrigation district
12 described in paragraph (1) or (2) shall be provided pursuant to
13 otherwise applicable tariffs.

14 (7) Nothing in this chapter shall be deemed to grant the
15 commission any jurisdiction over irrigation districts not already
16 granted to the commission by existing law.

17 (b) To give the full effect to the legislative intent in enacting
18 Section 701.8, ~~the costs provided in Sections 367 and 376~~
19 *competition transition charges* shall not apply to the load served
20 by preference power purchased from a federal power marketing
21 agency, or its successor, pursuant to Section 701.8 as it existed on
22 January 1, 1996, provided that the power is used solely for the
23 customer's own systems load and not for sale. The costs of this
24 provision shall be borne by all ratepayers in the affected service
25 territory, notwithstanding the firewall established in subdivision
26 (e) of Section 367.

27 (c) To give effect to an existing relationship, the obligation to
28 pay ~~the uneconomic costs specified in Sections 367 and 376~~
29 *competition transition charges* shall not apply to that portion of
30 the load of the University of California campus situated in Yolo
31 County that was being served as of May 31, 1996, by preference
32 power purchased from a federal marketing agency, or its successor,
33 provided that the power is used solely for the facility load of that
34 campus and not, directly or indirectly, for sale.

35 ~~SEC. 13.~~

36 *SEC. 51.* Section 374.5 of the Public Utilities Code is repealed.

37 ~~SEC. 14.~~

38 *SEC. 52.* Section 375 of the Public Utilities Code is repealed.

39 *SEC. 53.* *Section 376 of the Public Utilities Code is repealed.*

1 376. ~~To the extent that the costs of programs to accommodate~~
2 ~~implementation of direct access, the Power Exchange, and the~~
3 ~~Independent System Operator, that have been funded by an~~
4 ~~electrical corporation and have been found by the commission or~~
5 ~~the Federal Energy Regulatory Commission to be recoverable from~~
6 ~~the utility's customers, reduce an electrical corporation's~~
7 ~~opportunity to recover its utility generation-related plant and~~
8 ~~regulatory assets by the end of the year 2001, the electrical~~
9 ~~corporation may recover unrecovered utility generation-related~~
10 ~~plant and regulatory assets after December 31, 2001, in an amount~~
11 ~~equal to the utility's cost of commission-approved or Federal~~
12 ~~Energy Regulatory Commission approved restructuring-related~~
13 ~~implementation programs. An electrical corporation's ability to~~
14 ~~collect the amounts from retail customers after the year 2001 shall~~
15 ~~be reduced to the extent the Independent System Operator or the~~
16 ~~Power Exchange reimburses the electrical corporation for the costs~~
17 ~~of any of these programs.~~

18 ~~SEC. 15.~~

19 *SEC. 54.* Section 379 of the Public Utilities Code is amended
20 to read:

21 379. Nuclear decommissioning costs shall not be part of the
22 ~~costs described in Sections 367 and 376, *competition transition*~~
23 ~~*charges*, but shall be recovered as a nonbypassable charge until~~
24 ~~the time as the costs are fully recovered. Recovery of~~
25 ~~decommissioning costs may be accelerated to the extent possible.~~

26 *SEC. 55. Section 390 of the Public Utilities Code is repealed.*

27 390. (a) ~~Subject to applicable contractual terms, energy prices~~
28 ~~paid to nonutility power generators by a public utility electrical~~
29 ~~corporation based upon the commission's prescribed "short run~~
30 ~~avoided cost energy methodology" shall be determined as set forth~~
31 ~~in subdivisions (b) and (c).~~

32 (b) ~~Until the requirements of subdivision (c) have been satisfied,~~
33 ~~short run avoided cost energy payments paid to nonutility power~~
34 ~~generators by an electrical corporation shall be based on a formula~~
35 ~~that reflects a starting energy price, adjusted monthly to reflect~~
36 ~~changes in a starting gas index price in relation to an average of~~
37 ~~current California natural gas border price indices. The starting~~
38 ~~energy price shall be based on 12-month averages of recent,~~
39 ~~pre-January 1, 1996, short run avoided energy prices paid by each~~
40 ~~public utility electrical corporation to nonutility power generators.~~

1 The starting gas index price shall be established as an average of
2 index gas prices for the same annual periods.

3 ~~(e) The short-run avoided cost energy payments paid to~~
4 ~~nonutility power generators by electrical corporations shall be~~
5 ~~based on the clearing price paid by the independent Power~~
6 ~~Exchange if (1) the commission has issued an order determining~~
7 ~~that the independent Power Exchange is functioning properly for~~
8 ~~the purposes of determining the short-run avoided cost energy~~
9 ~~payments to be made to nonutility power generators, and either~~
10 ~~(2) the fossil-fired generation units owned, directly or indirectly,~~
11 ~~by the public utility electrical corporation are authorized to charge~~
12 ~~market-based rates and the “going forward” costs of those units~~
13 ~~are being recovered solely through the clearing prices paid by the~~
14 ~~independent Power Exchange or from contracts with the~~
15 ~~Independent System Operator, whether those contracts are~~
16 ~~market-based or based on operating costs for particular~~
17 ~~utility-owned powerplant units and at particular times when~~
18 ~~reactive power/voltage support is not yet procurable at~~
19 ~~market-based rates at locations where it is needed, and are not~~
20 ~~being recovered directly or indirectly through any other source,~~
21 ~~or (3) the public utility electrical corporation has divested 90~~
22 ~~percent of its gas-fired generation facilities that were operated to~~
23 ~~meet load in 1994 and 1995. However, nonutility power generators~~
24 ~~subject to this section may, upon appropriate notice to the public~~
25 ~~utility electrical corporation, exercise a one-time option to elect~~
26 ~~to thereafter receive energy payments based upon the clearing~~
27 ~~price from the independent Power Exchange.~~

28 ~~(d) If a nonutility power generator is being paid short-run~~
29 ~~avoided costs energy payments by an electrical corporation by a~~
30 ~~firm capacity contract, a forecast as available capacity contract,~~
31 ~~or a forecast as delivered capacity contract on the basis of the~~
32 ~~clearing price paid by the independent Power Exchange as~~
33 ~~described in subdivision (c) above, the value of capacity in the~~
34 ~~clearing price, if any, shall not be paid to the nonutility power~~
35 ~~generator. The value of capacity in the clearing price, if any, equals~~
36 ~~the difference between the market clearing customer demand bid~~
37 ~~at the level of generation dispatched by the independent Power~~
38 ~~Exchange and the highest supplier bid dispatched.~~

39 ~~(e) Short-run avoided energy cost payments made pursuant to~~
40 ~~this section are in addition to contractually specified capacity~~

1 payments. Nothing in this section shall be construed to affect,
2 modify or amend the terms and conditions of existing nonutility
3 power generators' contracts with respect to the sale of energy or
4 capacity or otherwise.

5 (f) Nothing in this section shall be construed to limit the level
6 of transition cost recovery provided to utilities under electric
7 industry restructuring policies established by the commission.

8 (g) The term "going forward costs" shall include, but not be
9 limited to, all costs associated with fuel transportation and fuel
10 supply, administrative and general, and operation and maintenance;
11 provided that, for purposes of this section, the following shall not
12 be considered "going forward costs": (1) commission-approved
13 capital costs for capital additions to fossil-fueled powerplants,
14 provided that such additions are necessary for the continued
15 operation of the powerplants utilized to meet load and such
16 additions are not undertaken primarily to expand, repower or
17 enhance the efficiency of plant operations; or, (2)
18 commission-approved operating costs for particular utility-owned
19 powerplant units and at particular times when reactive
20 power/voltage support is not yet procurable at market-based rates
21 in locations where it is needed, provided that the recovery shall
22 end on December 31, 2001.

23 *SEC. 56. Section 390.1 of the Public Utilities Code is repealed.*

24 390.1. Any nonutility power generator using renewable fuels
25 that has entered into a contract with an electrical corporation prior
26 to December 31, 2001, specifying fixed energy prices for five years
27 of output may negotiate a contract for an additional five years of
28 fixed energy payments upon expiration of the initial five-year term,
29 at a price to be determined by the commission.

30 *SEC. 16. Section 397 of the Public Utilities Code is amended*
31 *to read:*

32 397. (a) To ensure the continued safe and reliable provision
33 of electric service during the transition to competition, and to limit
34 the effect of fuel price volatility in electric rates paid by California
35 consumers, it is in the public interest to allow an electrical
36 corporation which is also a gas corporation and served fewer than
37 four million customers as of December 20, 1995, to file with the
38 commission a rate cap mechanism which shall include a Fuel Price
39 Index Mechanism requiring limited adjustments in an electrical
40 corporation's authorized System Average Rate in effect on June

1 ~~10, 1996, to reflect price changes in the fuel market. The~~
2 ~~commission shall authorize an electrical corporation to implement~~
3 ~~a rate cap mechanism which includes a Fuel Price Index~~
4 ~~Mechanism provided the following criteria are met:~~

5 ~~(1) The Fuel Price Index Mechanism shall be based on the~~
6 ~~Southern California Border Index price for natural gas as published~~
7 ~~periodically in Natural Gas Intelligence Magazine. The “Starting~~
8 ~~Point” of the Fuel Price Index Mechanism shall be defined as the~~
9 ~~California Border Index price as published in Natural Gas~~
10 ~~Intelligence for January 1, 1996.~~

11 ~~(2) The Fuel Price Index Mechanism shall include a “deadband”~~
12 ~~defined as a price range for natural gas that is any price up to 10~~
13 ~~percent higher, or lower, than the Starting Point.~~

14 ~~(3) The electrical corporation shall not file for a change in its~~
15 ~~authorized System Average Rate unless the California Border~~
16 ~~Index price, on a 12-month, rolling average basis, is outside the~~
17 ~~deadband. If the published California Border Index is outside of~~
18 ~~the deadband, the electrical corporation shall increase, or decrease,~~
19 ~~its authorized System Average Rate by an amount equal to the~~
20 ~~product of 25 percent multiplied by the percentage by which the~~
21 ~~12-month rolling average natural gas price is higher, or lower, than~~
22 ~~the deadband.~~

23 ~~(4) In no case shall an electrical corporation’s authorized System~~
24 ~~Average Rate under the Fuel Price Index Mechanism exceed the~~
25 ~~average of the authorized system average rates for the two largest~~
26 ~~electrical corporations as of June 10, 1996.~~

27 ~~(5) This section shall become inoperative on December 31,~~
28 ~~2001.~~

29 *SEC. 57. Section 394.5 of the Public Utilities Code is amended*
30 *to read:*

31 394.5. (a) Except for an electrical corporation as defined in
32 Section 218, or a local publicly owned electric utility offering
33 electrical service to residential and small commercial customers
34 within its service territory, each electric service provider offering
35 electrical service to residential and small commercial customers
36 shall, prior to the commencement of service, provide the potential
37 customer with a written notice of the service describing the price,
38 terms, and conditions of the service. A notice shall include all of
39 the following:

1 (1) A clear description of the price, terms, and conditions of
2 service, including:

3 (A) The price of electricity expressed in a format that makes it
4 possible for residential and small commercial customers to compare
5 and select among similar products and services on a standard basis.
6 The commission shall adopt rules to implement this subdivision.
7 The commission shall require disclosure of the total price of
8 electricity on a cents-per-kilowatthour basis, including the costs
9 of all electric services and charges regulated by the commission.
10 The commission shall also require estimates of the total monthly
11 bill for the electric service at varying consumption levels, including
12 the costs of all electric services and charges regulated by the
13 commission. In determining these rules, the commission may
14 consider alternatives to the cents-per-kilowatthour disclosure if
15 other information would provide the customer with sufficient
16 information to compare among alternatives on a standard basis.

17 (B) Separate disclosure of all recurring and nonrecurring charges
18 associated with the sale of electricity.

19 (C) If services other than electricity are offered, an itemization
20 of the services and the charge or charges associated with each.

21 (2) An explanation of the applicability and amount of the
22 competition transition charge, as determined pursuant to Sections
23 ~~367 to 376, inclusive~~: *charges*.

24 (3) A description of the potential customer's right to rescind
25 the contract without fee or penalty as described in Section 395.

26 (4) An explanation of the customer's financial obligations, as
27 well as the procedures regarding past due payments, discontinuance
28 of service, billing disputes, and service complaints.

29 (5) The electric service provider's registration number, if
30 applicable.

31 (6) The right to change service providers upon written notice,
32 including disclosure of any fees or penalties assessed by the
33 supplier for early termination of a contract.

34 (7) A description of the availability of low-income assistance
35 programs for qualified customers and how customers can apply
36 for these programs.

37 (b) The commission may assist electric service providers in
38 developing the notice. The commission may suggest inclusion of
39 additional information it deems necessary for the consumer
40 protection purposes of this section. On at least a semiannual basis,

1 electric service providers shall provide the commission with a copy
2 of the form of notice included in standard service plans made
3 available to residential and small commercial customers.

4 (c) An electric service provider offering electric services who
5 declines to provide those services to a consumer shall, upon request
6 of the consumer, disclose to that consumer the reason for the denial
7 in writing within 30 days. At the time service is denied, the electric
8 service provider shall disclose to the consumer the right to make
9 this request. A consumer shall have at least 30 days from the date
10 service is denied to make the request.

11 *SEC. 58. Section 395 of the Public Utilities Code is amended*
12 *to read:*

13 395. (a) In addition to any other right to revoke an offer,
14 residential and small commercial customers of electrical service,
15 as defined in subdivision ~~(h)~~ (g) of Section 331, have the right to
16 cancel a contract for electric service until midnight of the third
17 business day after the day on which the buyer signs an agreement
18 or offer to purchase.

19 (b) Cancellation occurs when the buyer gives written notice of
20 cancellation to the seller at the address specified in the agreement
21 or offer.

22 (c) Notice of cancellation, if given by mail, is effective when
23 deposited in the mail properly addressed with postage prepaid.

24 (d) Notice of cancellation given by the buyer need not take the
25 particular form as provided with the contract or offer to purchase
26 and, however expressed, is effective if it indicates the intention of
27 the buyer not to be bound by the contract.

28 *SEC. 59. Section 397 of the Public Utilities Code is repealed.*

29 ~~397. (a) Notwithstanding subdivision (a) of Section 368, to~~
30 ~~ensure the continued safe and reliable provision of electric service~~
31 ~~during the transition to competition, and to limit the effect of fuel~~
32 ~~price volatility in electric rates paid by California consumers, it is~~
33 ~~in the public interest to allow an electrical corporation which is~~
34 ~~also a gas corporation and served fewer than four million customers~~
35 ~~as of December 20, 1995, to file with the commission a rate cap~~
36 ~~mechanism which shall include a Fuel Price Index Mechanism~~
37 ~~requiring limited adjustments in an electrical corporation's~~
38 ~~authorized System Average Rate in effect on June 10, 1996, to~~
39 ~~reflect price changes in the fuel market. The commission shall~~
40 ~~authorize an electrical corporation to implement a rate cap~~

1 mechanism which includes a Fuel Price Index Mechanism provided
2 the following criteria are met:

3 (1) ~~The Fuel Price Index Mechanism shall be based on the~~
4 ~~Southern California Border Index price for natural gas as published~~
5 ~~periodically in Natural Gas Intelligence Magazine. The “Starting~~
6 ~~Point” of the Fuel Price Index Mechanism shall be defined as the~~
7 ~~California Border Index price as published in Natural Gas~~
8 ~~Intelligence for January 1, 1996.~~

9 (2) ~~The Fuel Price Index Mechanism shall include a “deadband”~~
10 ~~defined as a price range for natural gas that is any price up to 10~~
11 ~~percent higher, or lower, than the Starting Point.~~

12 (3) ~~The electrical corporation shall not file for a change in its~~
13 ~~authorized System Average Rate unless the California Border~~
14 ~~Index price, on a 12-month, rolling average basis, is outside the~~
15 ~~deadband. If the published California Border Index is outside of~~
16 ~~the deadband, the electrical corporation shall increase, or decrease,~~
17 ~~its authorized System Average Rate by an amount equal to the~~
18 ~~product of 25 percent multiplied by the percentage by which the~~
19 ~~12-month rolling average natural gas price is higher, or lower, than~~
20 ~~the deadband.~~

21 (4) ~~In no case shall an electrical corporation’s authorized System~~
22 ~~Average Rate under the Fuel Price Index Mechanism exceed the~~
23 ~~average of the authorized system average rates for the two largest~~
24 ~~electrical corporations as of June 10, 1996.~~

25 (5) ~~This section shall become inoperative on December 31,~~
26 ~~2001.~~

27 *SEC. 60. Section 399.2 of the Public Utilities Code is amended*
28 *to read:*

29 399.2. (a) (1) It is the policy of this state, and the intent of the
30 Legislature, to reaffirm that each electrical corporation shall
31 continue to operate its electric distribution grid in its service
32 territory and shall do so in a safe, reliable, efficient, and
33 cost-effective manner.

34 (2) In furtherance of this policy, it is the intent of the Legislature
35 that each electrical corporation shall continue to be responsible
36 for operating its own electric distribution grid including, but not
37 limited to, owning, controlling, operating, managing, maintaining,
38 planning, engineering, designing, and constructing its own electric
39 distribution grid, emergency response and restoration, service
40 connections, service turnons and turnoffs, and service inquiries

1 relating to the operation of its electric distribution grid, subject to
2 the commission's authority.

3 (b) In order to ensure the continued efficient use, and
4 cost-effective, safe, and reliable operation of the electric
5 distribution grid, each electrical corporation shall continue to
6 operate its electric distribution grid in its service ~~territory consistent~~
7 ~~with Section 330.~~ *territory*.

8 (c) In carrying out the purposes of this section, each electrical
9 corporation shall continue to make reasonable investments in its
10 electric distribution grid. Each electrical corporation shall continue
11 to have a reasonable opportunity to fully recover from all customers
12 of the electrical corporation, in a manner determined by the
13 commission pursuant to this code, all of the following:

14 (1) Reasonable investments in its electric distribution grid.

15 (2) A reasonable return on the investments in its electric
16 distribution grid.

17 (3) Reasonable costs to operate its electric distribution grid.

18 (d) For purposes of this section, the term "electric distribution
19 grid" means those facilities owned or operated by an electrical
20 corporation that are not under the control of the Independent
21 System Operator and that are used to transmit, deliver, or furnish
22 electricity for light, heat, or power.

23 (e) Nothing in this section shall be construed to alter or to affect
24 any of the following:

25 (1) Section 216, 218, or 2827.

26 (2) The authority of the commission to establish and enforce
27 standards and tariff conditions for the interconnection of
28 customer-owned facilities to the electric distribution grid.

29 (3) The ratemaking authority of the commission under this code.

30 (4) The authority of the commission to establish rules governing
31 the extension of service to new customers.

32 (f) Nothing in this section shall be construed to alter or affect
33 any authority or lack of authority of the commission regarding the
34 ownership and operation of new electric generation used in whole,
35 or in part, for the purpose of maintaining or enhancing the
36 reliability of the electric distribution grid.

37 (g) Nothing in this section diminishes or expands any existing
38 authority of a local governmental entity.

39 (h) The commission shall require every electrical corporation
40 operating an electric distribution grid to inform all customers who

1 request residential service connections via telephone of the
 2 availability of the California Alternative Rates for Energy (CARE)
 3 program and how they may qualify for and obtain these services
 4 and shall accept applications for the CARE program according to
 5 procedures specified by the commission. Electrical corporations
 6 shall recover the reasonable costs of implementing this subdivision.

7 *SEC. 61. Article 5.5 (commencing with Section 840) of Chapter*
 8 *4 of Part 1 of Division 1 of the Public Utilities Code is repealed.*

9 ~~SEC. 17. Section 846.2 of the Public Utilities Code is amended~~
 10 ~~to read:~~

11 ~~846.2. (a) Notwithstanding subdivision (c) of Section 841, for~~
 12 ~~any electrical corporation that ended its rate freeze period prior to~~
 13 ~~July 15, 1999, the commission may order a fair and reasonable~~
 14 ~~credit to ratepayers of any excess rate reduction bond proceeds.~~

15 ~~(b) "Excess rate reduction bond proceeds," as used in this~~
 16 ~~section, means proceeds from the sale of rate reduction bonds~~
 17 ~~authorized by commission financing orders issued pursuant to this~~
 18 ~~article that are subsequently determined by the commission to be~~
 19 ~~in excess of the amounts necessary to provide the 10-percent rate~~
 20 ~~reduction during the period when the rates were frozen.~~

21 *SEC. 62. Section 2827 of the Public Utilities Code is amended*
 22 *to read:*

23 2827. (a) The Legislature finds and declares that a program
 24 to provide net energy metering combined with net surplus
 25 compensation, co-energy metering, and wind energy co-metering
 26 for eligible customer-generators is one way to encourage substantial
 27 private investment in renewable energy resources, stimulate in-state
 28 economic growth, reduce demand for electricity during peak
 29 consumption periods, help stabilize California's energy supply
 30 infrastructure, enhance the continued diversification of California's
 31 energy resource mix, reduce interconnection and administrative
 32 costs for electricity suppliers, and encourage conservation and
 33 efficiency.

34 (b) As used in this section, the following terms have the
 35 following meanings:

36 (1) "Co-energy metering" means a program that is the same in
 37 all other respects as a net energy metering program, except that
 38 the local publicly owned electric utility has elected to apply a
 39 generation-to-generation energy and time-of-use credit formula
 40 as provided in subdivision (i).

1 (2) “Electrical cooperative” means an electrical cooperative as
2 defined in Section 2776.

3 (3) “Electric utility” means an electrical corporation, a local
4 publicly owned electric utility, or an electrical cooperative, or any
5 other entity, except an electric service provider, that offers electrical
6 service. This section shall not apply to a local publicly owned
7 electric utility that serves more than 750,000 customers and that
8 also conveys water to its customers.

9 (4) “Eligible customer-generator” means a residential customer,
10 small commercial customer as defined in subdivision ~~(h)~~ (g) of
11 Section 331, or commercial, industrial, or agricultural customer
12 of an electric utility, who uses a renewable electrical generation
13 facility, or a combination of those facilities, with a total capacity
14 of not more than one megawatt, that is located on the customer’s
15 owned, leased, or rented premises, and is interconnected and
16 operates in parallel with the electrical grid, and is intended
17 primarily to offset part or all of the customer’s own electrical
18 requirements.

19 (5) “Large electrical corporation” means an electrical
20 corporation with more than 100,000 service connections in
21 California.

22 (6) “Net energy metering” means measuring the difference
23 between the electricity supplied through the electrical grid and the
24 electricity generated by an eligible customer-generator and fed
25 back to the electrical grid over a 12-month period as described in
26 subdivisions (c) and (h).

27 (7) “Net surplus customer-generator” means an eligible
28 customer-generator that generates more electricity during a
29 12-month period than is supplied by the electric utility to the
30 eligible customer-generator during the same 12-month period.

31 (8) “Net surplus electricity” means all electricity generated by
32 an eligible customer-generator measured in kilowatthours over a
33 12-month period that exceeds the amount of electricity consumed
34 by that eligible customer-generator.

35 (9) “Net surplus electricity compensation” means a per
36 kilowatthour rate offered by the electric utility to the net surplus
37 customer-generator for net surplus electricity that is set by the
38 ratemaking authority pursuant to subdivision (h).

39 (10) “Ratemaking authority” means, for an electrical
40 corporation, the commission, for an electrical cooperative, its

1 ratesetting body selected by its shareholders or members, and for
2 a local publicly owned electric utility, the local elected body
3 responsible for setting the rates of the local publicly owned utility.

4 (11) “Renewable electrical generation facility” means a facility
5 that generates electricity from a renewable source listed in
6 paragraph (1) of subdivision (a) of Section 25741 of the Public
7 Resources Code. A small hydroelectric generation facility is not
8 an eligible renewable electrical generation facility if it will cause
9 an adverse impact on instream beneficial uses or cause a change
10 in the volume or timing of streamflow.

11 (12) “Wind energy co-metering” means any wind energy project
12 greater than 50 kilowatts, but not exceeding one megawatt, where
13 the difference between the electricity supplied through the electrical
14 grid and the electricity generated by an eligible customer-generator
15 and fed back to the electrical grid over a 12-month period is as
16 described in subdivision (h). Wind energy co-metering shall be
17 accomplished pursuant to Section 2827.8.

18 (c) (1) Except as provided in paragraph (4) and in Section
19 2827.1, every electric utility shall develop a standard contract or
20 tariff providing for net energy metering, and shall make this
21 standard contract or tariff available to eligible customer-generators,
22 upon request, on a first-come-first-served basis until the time that
23 the total rated generating capacity used by eligible
24 customer-generators exceeds 5 percent of the electric utility’s
25 aggregate customer peak demand. Net energy metering shall be
26 accomplished using a single meter capable of registering the flow
27 of electricity in two directions. An additional meter or meters to
28 monitor the flow of electricity in each direction may be installed
29 with the consent of the eligible customer-generator, at the expense
30 of the electric utility, and the additional metering shall be used
31 only to provide the information necessary to accurately bill or
32 credit the eligible customer-generator pursuant to subdivision (h),
33 or to collect generating system performance information for
34 research purposes relative to a renewable electrical generation
35 facility. If the existing electrical meter of an eligible
36 customer-generator is not capable of measuring the flow of
37 electricity in two directions, the eligible customer-generator shall
38 be responsible for all expenses involved in purchasing and
39 installing a meter that is able to measure electricity flow in two
40 directions. If an additional meter or meters are installed, the net

1 energy metering calculation shall yield a result identical to that of
2 a single meter. An eligible customer-generator that is receiving
3 service other than through the standard contract or tariff may elect
4 to receive service through the standard contract or tariff until the
5 electric utility reaches the generation limit set forth in this
6 paragraph. Once the generation limit is reached, only eligible
7 customer-generators that had previously elected to receive service
8 pursuant to the standard contract or tariff have a right to continue
9 to receive service pursuant to the standard contract or tariff.
10 Eligibility for net energy metering does not limit an eligible
11 customer-generator's eligibility for any other rebate, incentive, or
12 credit provided by the electric utility, or pursuant to any
13 governmental program, including rebates and incentives provided
14 pursuant to the California Solar Initiative.

15 (2) An electrical corporation shall include a provision in the net
16 energy metering contract or tariff requiring that any customer with
17 an existing electrical generating facility and meter who enters into
18 a new net energy metering contract shall provide an inspection
19 report to the electrical corporation, unless the electrical generating
20 facility and meter have been installed or inspected within the
21 previous three years. The inspection report shall be prepared by a
22 California licensed contractor who is not the owner or operator of
23 the facility and meter. A California licensed electrician shall
24 perform the inspection of the electrical portion of the facility and
25 meter.

26 (3) (A) On an annual basis, every electric utility shall make
27 available to the ratemaking authority information on the total rated
28 generating capacity used by eligible customer-generators that are
29 customers of that provider in the provider's service area and the
30 net surplus electricity purchased by the electric utility pursuant to
31 this section.

32 (B) An electric service provider operating pursuant to Section
33 394 shall make available to the ratemaking authority the
34 information required by this paragraph for each eligible
35 customer-generator that is their customer for each service area of
36 an electrical corporation, local publicly owned electrical utility,
37 or electrical cooperative, in which the eligible customer-generator
38 has net energy metering.

39 (C) The ratemaking authority shall develop a process for making
40 the information required by this paragraph available to electric

1 utilities, and for using that information to determine when, pursuant
2 to paragraphs (1) and (4), an electric utility is not obligated to
3 provide net energy metering to additional eligible
4 customer-generators in its service area.

5 (4) (A) An electric utility that is not a large electrical
6 corporation is not obligated to provide net energy metering to
7 additional eligible customer-generators in its service area when
8 the combined total peak demand of all electricity used by eligible
9 customer-generators served by all the electric utilities in that
10 service area furnishing net energy metering to eligible
11 customer-generators exceeds 5 percent of the aggregate customer
12 peak demand of those electric utilities.

13 (B) The commission shall require every large electrical
14 corporation to make the standard contract or tariff available to
15 eligible customer-generators, continuously and without
16 interruption, until such times as the large electrical corporation
17 reaches its net energy metering program limit or July 1, 2017,
18 whichever is earlier. A large electrical corporation reaches its
19 program limit when the combined total peak demand of all
20 electricity used by eligible customer-generators served by all the
21 electric utilities in the large electrical corporation's service area
22 furnishing net energy metering to eligible customer-generators
23 exceeds 5 percent of the aggregate customer peak demand of those
24 electric utilities. For purposes of calculating a large electrical
25 corporation's program limit, "aggregate customer peak demand"
26 means the highest sum of the noncoincident peak demands of all
27 of the large electrical corporation's customers that occurs in any
28 calendar year. To determine the aggregate customer peak demand,
29 every large electrical corporation shall use a uniform method
30 approved by the commission. The program limit calculated
31 pursuant to this paragraph shall not be less than the following:

32 (i) For San Diego Gas and Electric Company, when it has made
33 607 megawatts of nameplate generating capacity available to
34 eligible customer-generators.

35 (ii) For Southern California Edison Company, when it has made
36 2,240 megawatts of nameplate generating capacity available to
37 eligible customer-generators.

38 (iii) For Pacific Gas and Electric Company, when it has made
39 2,409 megawatts of nameplate generating capacity available to
40 eligible customer-generators.

1 (C) Every large electrical corporation shall file a monthly report
2 with the commission detailing the progress toward the net energy
3 metering program limit established in subparagraph (B). The report
4 shall include separate calculations on progress toward the limits
5 based on operating solar energy systems, cumulative numbers of
6 interconnection requests for net energy metering eligible systems,
7 and any other criteria required by the commission.

8 (D) Beginning July 1, 2017, or upon reaching the net metering
9 program limit of subparagraph (B), whichever is earlier, the
10 obligation of a large electrical corporation to provide service
11 pursuant to a standard contract or tariff shall be pursuant to Section
12 2827.1 and applicable state and federal requirements.

13 (d) Every electric utility shall make all necessary forms and
14 contracts for net energy metering and net surplus electricity
15 compensation service available for download from the Internet.

16 (e) (1) Every electric utility shall ensure that requests for
17 establishment of net energy metering and net surplus electricity
18 compensation are processed in a time period not exceeding that
19 for similarly situated customers requesting new electric service,
20 but not to exceed 30 working days from the date it receives a
21 completed application form for net energy metering service or net
22 surplus electricity compensation, including a signed interconnection
23 agreement from an eligible customer-generator and the electric
24 inspection clearance from the governmental authority having
25 jurisdiction.

26 (2) Every electric utility shall ensure that requests for an
27 interconnection agreement from an eligible customer-generator
28 are processed in a time period not to exceed 30 working days from
29 the date it receives a completed application form from the eligible
30 customer-generator for an interconnection agreement.

31 (3) If an electric utility is unable to process a request within the
32 allowable timeframe pursuant to paragraph (1) or (2), it shall notify
33 the eligible customer-generator and the ratemaking authority of
34 the reason for its inability to process the request and the expected
35 completion date.

36 (f) (1) If a customer participates in direct transactions pursuant
37 to paragraph (1) of subdivision (b) of Section 365, or Section 365.1,
38 with an electric service provider that does not provide distribution
39 service for the direct transactions, the electric utility that provides
40 distribution service for the eligible customer-generator is not

1 obligated to provide net energy metering or net surplus electricity
2 compensation to the customer.

3 (2) If a customer participates in direct transactions pursuant to
4 paragraph (1) of subdivision (b) of Section 365 with an electric
5 service provider, and the customer is an eligible
6 customer-generator, the electric utility that provides distribution
7 service for the direct transactions may recover from the customer's
8 electric service provider the incremental costs of metering and
9 billing service related to net energy metering and net surplus
10 electricity compensation in an amount set by the ratemaking
11 authority.

12 (g) Except for the time-variant kilowatthour pricing portion of
13 any tariff adopted by the commission pursuant to paragraph (4) of
14 subdivision (a) of Section 2851, each net energy metering contract
15 or tariff shall be identical, with respect to rate structure, all retail
16 rate components, and any monthly charges, to the contract or tariff
17 to which the same customer would be assigned if the customer did
18 not use a renewable electrical generation facility, except that
19 eligible customer-generators shall not be assessed standby charges
20 on the electrical generating capacity or the kilowatthour production
21 of a renewable electrical generation facility. The charges for all
22 retail rate components for eligible customer-generators shall be
23 based exclusively on the customer-generator's net kilowatthour
24 consumption over a 12-month period, without regard to the eligible
25 customer-generator's choice as to from whom it purchases
26 electricity that is not self-generated. Any new or additional demand
27 charge, standby charge, customer charge, minimum monthly
28 charge, interconnection charge, or any other charge that would
29 increase an eligible customer-generator's costs beyond those of
30 other customers who are not eligible customer-generators in the
31 rate class to which the eligible customer-generator would otherwise
32 be assigned if the customer did not own, lease, rent, or otherwise
33 operate a renewable electrical generation facility is contrary to the
34 intent of this section, and shall not form a part of net energy
35 metering contracts or tariffs.

36 (h) For eligible customer-generators, the net energy metering
37 calculation shall be made by measuring the difference between
38 the electricity supplied to the eligible customer-generator and the
39 electricity generated by the eligible customer-generator and fed

1 back to the electrical grid over a 12-month period. The following
2 rules shall apply to the annualized net metering calculation:

3 (1) The eligible residential or small commercial
4 customer-generator, at the end of each 12-month period following
5 the date of final interconnection of the eligible
6 customer-generator's system with an electric utility, and at each
7 anniversary date thereafter, shall be billed for electricity used
8 during that 12-month period. The electric utility shall determine
9 if the eligible residential or small commercial customer-generator
10 was a net consumer or a net surplus customer-generator during
11 that period.

12 (2) At the end of each 12-month period, where the electricity
13 supplied during the period by the electric utility exceeds the
14 electricity generated by the eligible residential or small commercial
15 customer-generator during that same period, the eligible residential
16 or small commercial customer-generator is a net electricity
17 consumer and the electric utility shall be owed compensation for
18 the eligible customer-generator's net kilowatthour consumption
19 over that 12-month period. The compensation owed for the eligible
20 residential or small commercial customer-generator's consumption
21 shall be calculated as follows:

22 (A) For all eligible customer-generators taking service under
23 contracts or tariffs employing "baseline" and "over baseline" rates,
24 any net monthly consumption of electricity shall be calculated
25 according to the terms of the contract or tariff to which the same
26 customer would be assigned to, or be eligible for, if the customer
27 was not an eligible customer-generator. If those same
28 customer-generators are net generators over a billing period, the
29 net kilowatthours generated shall be valued at the same price per
30 kilowatthour as the electric utility would charge for the baseline
31 quantity of electricity during that billing period, and if the number
32 of kilowatthours generated exceeds the baseline quantity, the excess
33 shall be valued at the same price per kilowatthour as the electric
34 utility would charge for electricity over the baseline quantity during
35 that billing period.

36 (B) For all eligible customer-generators taking service under
37 contracts or tariffs employing time-of-use rates, any net monthly
38 consumption of electricity shall be calculated according to the
39 terms of the contract or tariff to which the same customer would
40 be assigned, or be eligible for, if the customer was not an eligible

1 customer-generator. When those same customer-generators are
2 net generators during any discrete time-of-use period, the net
3 kilowatthours produced shall be valued at the same price per
4 kilowatthour as the electric utility would charge for retail
5 kilowatthour sales during that same time-of-use period. If the
6 eligible customer-generator's time-of-use electrical meter is unable
7 to measure the flow of electricity in two directions, paragraph (1)
8 of subdivision (c) shall apply.

9 (C) For all eligible residential and small commercial
10 customer-generators and for each billing period, the net balance
11 of moneys owed to the electric utility for net consumption of
12 electricity or credits owed to the eligible customer-generator for
13 net generation of electricity shall be carried forward as a monetary
14 value until the end of each 12-month period. For all eligible
15 commercial, industrial, and agricultural customer-generators, the
16 net balance of moneys owed shall be paid in accordance with the
17 electric utility's normal billing cycle, except that if the eligible
18 commercial, industrial, or agricultural customer-generator is a net
19 electricity producer over a normal billing cycle, any excess
20 kilowatthours generated during the billing cycle shall be carried
21 over to the following billing period as a monetary value, calculated
22 according to the procedures set forth in this section, and appear as
23 a credit on the eligible commercial, industrial, or agricultural
24 customer-generator's account, until the end of the annual period
25 when paragraph (3) shall apply.

26 (3) At the end of each 12-month period, where the electricity
27 generated by the eligible customer-generator during the 12-month
28 period exceeds the electricity supplied by the electric utility during
29 that same period, the eligible customer-generator is a net surplus
30 customer-generator and the electric utility, upon an affirmative
31 election by the net surplus customer-generator, shall either (A)
32 provide net surplus electricity compensation for any net surplus
33 electricity generated during the prior 12-month period, or (B) allow
34 the net surplus customer-generator to apply the net surplus
35 electricity as a credit for kilowatthours subsequently supplied by
36 the electric utility to the net surplus customer-generator. For an
37 eligible customer-generator that does not affirmatively elect to
38 receive service pursuant to net surplus electricity compensation,
39 the electric utility shall retain any excess kilowatthours generated
40 during the prior 12-month period. The eligible customer-generator

1 not affirmatively electing to receive service pursuant to net surplus
2 electricity compensation shall not be owed any compensation for
3 the net surplus electricity unless the electric utility enters into a
4 purchase agreement with the eligible customer-generator for those
5 excess kilowatthours. Every electric utility shall provide notice to
6 eligible customer-generators that they are eligible to receive net
7 surplus electricity compensation for net surplus electricity, that
8 they must elect to receive net surplus electricity compensation,
9 and that the 12-month period commences when the electric utility
10 receives the eligible customer-generator's election. For an electric
11 utility that is an electrical corporation or electrical cooperative,
12 the commission may adopt requirements for providing notice and
13 the manner by which eligible customer-generators may elect to
14 receive net surplus electricity compensation.

15 (4) (A) An eligible customer-generator with multiple meters
16 may elect to aggregate the electrical load of the meters located on
17 the property where the renewable electrical generation facility is
18 located and on all property adjacent or contiguous to the property
19 on which the renewable electrical generation facility is located, if
20 those properties are solely owned, leased, or rented by the eligible
21 customer-generator. If the eligible customer-generator elects to
22 aggregate the electric load pursuant to this paragraph, the electric
23 utility shall use the aggregated load for the purpose of determining
24 whether an eligible customer-generator is a net consumer or a net
25 surplus customer-generator during a 12-month period.

26 (B) If an eligible customer-generator chooses to aggregate
27 pursuant to subparagraph (A), the eligible customer-generator shall
28 be permanently ineligible to receive net surplus electricity
29 compensation, and the electric utility shall retain any kilowatthours
30 in excess of the eligible customer-generator's aggregated electrical
31 load generated during the 12-month period.

32 (C) If an eligible customer-generator with multiple meters elects
33 to aggregate the electrical load of those meters pursuant to
34 subparagraph (A), and different rate schedules are applicable to
35 service at any of those meters, the electricity generated by the
36 renewable electrical generation facility shall be allocated to each
37 of the meters in proportion to the electrical load served by those
38 meters. For example, if the eligible customer-generator receives
39 electric service through three meters, two meters being at an
40 agricultural rate that each provide service to 25 percent of the

1 customer's total load, and a third meter, at a commercial rate, that
2 provides service to 50 percent of the customer's total load, then
3 50 percent of the electrical generation of the eligible renewable
4 generation facility shall be allocated to the third meter that provides
5 service at the commercial rate and 25 percent of the generation
6 shall be allocated to each of the two meters providing service at
7 the agricultural rate. This proportionate allocation shall be
8 computed each billing period.

9 (D) This paragraph shall not become operative for an electrical
10 corporation unless the commission determines that allowing
11 eligible customer-generators to aggregate their load from multiple
12 meters will not result in an increase in the expected revenue
13 obligations of customers who are not eligible customer-generators.
14 The commission shall make this determination by September 30,
15 2013. In making this determination, the commission shall determine
16 if there are any public purpose or other noncommodity charges
17 that the eligible customer-generators would pay pursuant to the
18 net energy metering program as it exists prior to aggregation, that
19 the eligible customer-generator would not pay if permitted to
20 aggregate the electrical load of multiple meters pursuant to this
21 paragraph.

22 (E) A local publicly owned electric utility or electrical
23 cooperative shall only allow eligible customer-generators to
24 aggregate their load if the utility's ratemaking authority determines
25 that allowing eligible customer-generators to aggregate their load
26 from multiple meters will not result in an increase in the expected
27 revenue obligations of customers that are not eligible
28 customer-generators. The ratemaking authority of a local publicly
29 owned electric utility or electrical cooperative shall make this
30 determination within 180 days of the first request made by an
31 eligible customer-generator to aggregate their load. In making the
32 determination, the ratemaking authority shall determine if there
33 are any public purpose or other noncommodity charges that the
34 eligible customer-generator would pay pursuant to the net energy
35 metering or co-energy metering program of the utility as it exists
36 prior to aggregation, that the eligible customer-generator would
37 not pay if permitted to aggregate the electrical load of multiple
38 meters pursuant to this paragraph. If the ratemaking authority
39 determines that load aggregation will not cause an incremental
40 rate impact on the utility's customers that are not eligible

1 customer-generators, the local publicly owned electric utility or
2 electrical cooperative shall permit an eligible customer-generator
3 to elect to aggregate the electrical load of multiple meters pursuant
4 to this paragraph. The ratemaking authority may reconsider any
5 determination made pursuant to this subparagraph in a subsequent
6 public proceeding.

7 (F) For purposes of this paragraph, parcels that are divided by
8 a street, highway, or public thoroughfare are considered contiguous,
9 provided they are otherwise contiguous and under the same
10 ownership.

11 (G) An eligible customer-generator may only elect to aggregate
12 the electrical load of multiple meters if the renewable electrical
13 generation facility, or a combination of those facilities, has a total
14 generating capacity of not more than one megawatt.

15 (H) Notwithstanding subdivision (g), an eligible
16 customer-generator electing to aggregate the electrical load of
17 multiple meters pursuant to this subdivision shall remit service
18 charges for the cost of providing billing services to the electric
19 utility that provides service to the meters.

20 (5) (A) The ratemaking authority shall establish a net surplus
21 electricity compensation valuation to compensate the net surplus
22 customer-generator for the value of net surplus electricity generated
23 by the net surplus customer-generator. The commission shall
24 establish the valuation in a ratemaking proceeding. The ratemaking
25 authority for a local publicly owned electric utility shall establish
26 the valuation in a public proceeding. The net surplus electricity
27 compensation valuation shall be established so as to provide the
28 net surplus customer-generator just and reasonable compensation
29 for the value of net surplus electricity, while leaving other
30 ratepayers unaffected. The ratemaking authority shall determine
31 whether the compensation will include, where appropriate
32 justification exists, either or both of the following components:

33 (i) The value of the electricity itself.

34 (ii) The value of the renewable attributes of the electricity.

35 (B) In establishing the rate pursuant to subparagraph (A), the
36 ratemaking authority shall ensure that the rate does not result in a
37 shifting of costs between eligible customer-generators and other
38 bundled service customers.

39 (6) (A) Upon adoption of the net surplus electricity
40 compensation rate by the ratemaking authority, any renewable

1 energy credit, as defined in Section 399.12, for net surplus
2 electricity purchased by the electric utility shall belong to the
3 electric utility. Any renewable energy credit associated with
4 electricity generated by the eligible customer-generator that is
5 utilized by the eligible customer-generator shall remain the property
6 of the eligible customer-generator.

7 (B) Upon adoption of the net surplus electricity compensation
8 rate by the ratemaking authority, the net surplus electricity
9 purchased by the electric utility shall count toward the electric
10 utility’s renewables portfolio standard annual procurement targets
11 for the purposes of paragraph (1) of subdivision (b) of Section
12 399.15, or for a local publicly owned electric utility, the renewables
13 portfolio standard annual procurement targets established pursuant
14 to Section 387.

15 (7) The electric utility shall provide every eligible residential
16 or small commercial customer-generator with net electricity
17 consumption and net surplus electricity generation information
18 with each regular bill. That information shall include the current
19 monetary balance owed the electric utility for net electricity
20 consumed, or the net surplus electricity generated, since the last
21 12-month period ended. Notwithstanding this subdivision, an
22 electric utility shall permit that customer to pay monthly for net
23 energy consumed.

24 (8) If an eligible residential or small commercial
25 customer-generator terminates the customer relationship with the
26 electric utility, the electric utility shall reconcile the eligible
27 customer-generator’s consumption and production of electricity
28 during any part of a 12-month period following the last
29 reconciliation, according to the requirements set forth in this
30 subdivision, except that those requirements shall apply only to the
31 months since the most recent 12-month bill.

32 (9) If an electric service provider or electric utility providing
33 net energy metering to a residential or small commercial
34 customer-generator ceases providing that electric service to that
35 customer during any 12-month period, and the customer-generator
36 enters into a new net energy metering contract or tariff with a new
37 electric service provider or electric utility, the 12-month period,
38 with respect to that new electric service provider or electric utility,
39 shall commence on the date on which the new electric service

1 provider or electric utility first supplies electric service to the
2 customer-generator.

3 (i) Notwithstanding any other provisions of this section,
4 paragraphs (1), (2), and (3) shall apply to an eligible
5 customer-generator with a capacity of more than 10 kilowatts, but
6 not exceeding one megawatt, that receives electric service from a
7 local publicly owned electric utility that has elected to utilize a
8 co-energy metering program unless the local publicly owned
9 electric utility chooses to provide service for eligible
10 customer-generators with a capacity of more than 10 kilowatts in
11 accordance with subdivisions (g) and (h):

12 (1) The eligible customer-generator shall be required to utilize
13 a meter, or multiple meters, capable of separately measuring
14 electricity flow in both directions. All meters shall provide
15 time-of-use measurements of electricity flow, and the customer
16 shall take service on a time-of-use rate schedule. If the existing
17 meter of the eligible customer-generator is not a time-of-use meter
18 or is not capable of measuring total flow of electricity in both
19 directions, the eligible customer-generator shall be responsible for
20 all expenses involved in purchasing and installing a meter that is
21 both time-of-use and able to measure total electricity flow in both
22 directions. This subdivision shall not restrict the ability of an
23 eligible customer-generator to utilize any economic incentives
24 provided by a governmental agency or an electric utility to reduce
25 its costs for purchasing and installing a time-of-use meter.

26 (2) The consumption of electricity from the local publicly owned
27 electric utility shall result in a cost to the eligible
28 customer-generator to be priced in accordance with the standard
29 rate charged to the eligible customer-generator in accordance with
30 the rate structure to which the customer would be assigned if the
31 customer did not use a renewable electrical generation facility.
32 The generation of electricity provided to the local publicly owned
33 electric utility shall result in a credit to the eligible
34 customer-generator and shall be priced in accordance with the
35 generation component, established under the applicable structure
36 to which the customer would be assigned if the customer did not
37 use a renewable electrical generation facility.

38 (3) All costs and credits shall be shown on the eligible
39 customer-generator's bill for each billing period. In any months
40 in which the eligible customer-generator has been a net consumer

1 of electricity calculated on the basis of value determined pursuant
2 to paragraph (2), the customer-generator shall owe to the local
3 publicly owned electric utility the balance of electricity costs and
4 credits during that billing period. In any billing period in which
5 the eligible customer-generator has been a net producer of
6 electricity calculated on the basis of value determined pursuant to
7 paragraph (2), the local publicly owned electric utility shall owe
8 to the eligible customer-generator the balance of electricity costs
9 and credits during that billing period. Any net credit to the eligible
10 customer-generator of electricity costs may be carried forward to
11 subsequent billing periods, provided that a local publicly owned
12 electric utility may choose to carry the credit over as a kilowatthour
13 credit consistent with the provisions of any applicable contract or
14 tariff, including any differences attributable to the time of
15 generation of the electricity. At the end of each 12-month period,
16 the local publicly owned electric utility may reduce any net credit
17 due to the eligible customer-generator to zero.

18 (j) A renewable electrical generation facility used by an eligible
19 customer-generator shall meet all applicable safety and
20 performance standards established by the National Electrical Code,
21 the Institute of Electrical and Electronics Engineers, and accredited
22 testing laboratories, including Underwriters Laboratories
23 Incorporated and, where applicable, rules of the commission
24 regarding safety and reliability. A customer-generator whose
25 renewable electrical generation facility meets those standards and
26 rules shall not be required to install additional controls, perform
27 or pay for additional tests, or purchase additional liability
28 insurance.

29 (k) If the commission determines that there are cost or revenue
30 obligations for an electrical corporation that may not be recovered
31 from customer-generators acting pursuant to this section, those
32 obligations shall remain within the customer class from which any
33 shortfall occurred and shall not be shifted to any other customer
34 class. Net energy metering and co-energy metering customers shall
35 not be exempt from the public goods charges imposed pursuant to
36 Article 7 (commencing with Section 381), Article 8 (commencing
37 with Section 385), or Article 15 (commencing with Section 399)
38 of Chapter 2.3 of Part 1.

39 (l) A net energy metering, co-energy metering, or wind energy
40 co-metering customer shall reimburse the Department of Water

1 Resources for all charges that would otherwise be imposed on the
2 customer by the commission to recover bond-related costs pursuant
3 to an agreement between the commission and the Department of
4 Water Resources pursuant to Section 80110 of the Water Code,
5 as well as the costs of the department equal to the share of the
6 department's estimated net unavoidable power purchase contract
7 costs attributable to the customer. The commission shall
8 incorporate the determination into an existing proceeding before
9 the commission, and shall ensure that the charges are
10 nonbypassable. Until the commission has made a determination
11 regarding the nonbypassable charges, net energy metering,
12 co-energy metering, and wind energy co-metering shall continue
13 under the same rules, procedures, terms, and conditions as were
14 applicable on December 31, 2002.

15 (m) In implementing the requirements of subdivisions (k) and
16 (l), an eligible customer-generator shall not be required to replace
17 its existing meter except as set forth in paragraph (1) of subdivision
18 (c), nor shall the electric utility require additional measurement of
19 usage beyond that which is necessary for customers in the same
20 rate class as the eligible customer-generator.

21 (n) It is the intent of the Legislature that the Treasurer
22 incorporate net energy metering, including net surplus electricity
23 compensation, co-energy metering, and wind energy co-metering
24 projects undertaken pursuant to this section as sustainable building
25 methods or distributive energy technologies for purposes of
26 evaluating low-income housing projects.

27 ~~SEC. 18.~~

28 *SEC. 63.* Section 9600 of the Public Utilities Code is amended
29 to read:

30 9600. (a) It is the intent of the Legislature that California's
31 local publicly owned electric utilities and electric corporations
32 should commit control of their transmission facilities to the
33 Independent System Operator as described in Chapter 2.3
34 (commencing with Section 330) of Part 1 of Division 1. These
35 utilities should jointly advocate to the Federal Energy Regulatory
36 Commission a pricing methodology for the Independent System
37 Operator that results in an equitable return on capital investment
38 in transmission facilities for all Independent System Operator
39 participants and is based on the following principles:

1 (1) Utility specific access charge rates as proposed in Docket
2 No. EC96-19-000 as finally approved by the Federal Energy
3 Regulatory Commission reflecting the costs of that utility's
4 transmission facilities shall go into effect on the first day of the
5 Independent System Operator operation. The utility specific rates
6 shall honor all of the terms and conditions of existing transmission
7 service contracts and shall recognize any wheeling revenues of
8 existing transmission service arrangements to the transmission
9 owner.

10 (2) (A) No later than two years after the initial operation of the
11 Independent System Operator, the Independent System Operator
12 shall recommend for adoption by the Federal Energy Regulatory
13 Commission a rate methodology determined by a decision of the
14 Independent System Operator governing board, provided that the
15 decision shall be based on principles approved by the governing
16 board including, but not limited to, an equitable balance of costs
17 and benefits, and shall define the transmission facility costs, if
18 any, which shall be rolled in to the transmission service rate and
19 spread equally among all Independent System Operator
20 transmission users, and those transmission facility costs, if any,
21 which should be specifically assigned to a specific utility's service
22 area.

23 (B) If there is no governing board decision, the rate methodology
24 shall be determined following a decision by the alternative dispute
25 resolution method set forth in the Independent System Operator
26 bylaws.

27 (C) If no alternative dispute resolution decision is rendered,
28 then a default rate methodology shall be a uniform regional
29 transmission access charge and a utility specific local transmission
30 access charge, provided that the default rate methodology shall be
31 recommended for implementation upon termination of the cost
32 recovery plan or no later than two years after the initial operation
33 of the Independent System Operator, whichever is later. For
34 purposes of this paragraph, regional transmission facilities are
35 defined to be transmission facilities operating at or above 230
36 kilovolts plus an appropriate percentage of transmission facilities
37 operating below 230 kilovolts; all other transmission facilities shall
38 be considered local. The appropriate percentage of transmission
39 facilities described above shall be consistent with the guidelines

1 in Federal Energy Regulatory Commission Order No. 888 and any
2 exception approved by that commission.

3 (3) If the rate methodology implemented as a result of a decision
4 by the Independent System Operator governing board or resulting
5 from the independent system operator alternative dispute resolution
6 process results in rates different than those in effect prior to the
7 decision for any transmission facility owner, the amount of any
8 differences between the new rates and the prior rates shall be
9 recorded in a tracking account to be recovered from customers and
10 paid to the appropriate transmission owners by the transmission
11 facility owner after termination of the cost recovery plan set forth
12 in Section 368. The recovery and payments shall be based on an
13 amortization period not to exceed three years in the case of the
14 electrical corporations or five years in the case of the local publicly
15 owned electric utilities.

16 (4) The costs of transmission facilities placed in service after
17 the date of initial implementation of the Independent System
18 Operator shall be recovered using the rate methodology in effect
19 at the time the facilities go into operation.

20 (5) The electrical corporations and the local publicly owned
21 electric utilities shall jointly develop language for implementation
22 proposals to the Federal Energy Regulatory Commission based on
23 these principles.

24 (6) Nothing in this section shall compel any party to violate
25 restrictions applicable to facilities financed with tax-exempt bonds
26 or contractual restrictions and covenants regarding use of
27 transmission facilities existing as of December 20, 1995.

28 (b) Following a final Federal Energy Regulatory Commission
29 decision approving the Independent System Operator, no California
30 electrical corporation or local publicly owned electric utility shall
31 be authorized to collect any competition transition charge
32 authorized pursuant to this division and Chapter 2.3 (commencing
33 with Section 330) of Part 1 of Division 1 unless it commits control
34 of its transmission facilities to the Independent System Operator.

35 ~~SEC. 19.~~

36 *SEC. 64.* Section 9607 of the Public Utilities Code is amended
37 to read:

38 9607. (a) The intent of this section is to avoid cost-shifting to
39 customers of an electrical corporation resulting from the transfer

1 of distribution services from an electrical corporation to an
2 irrigation district.

3 (b) Except as otherwise provided in this section and Section
4 9608, and notwithstanding any other provision of law, an irrigation
5 district that offered electric service to retail customers as of January
6 1, 1999, may not construct, lease, acquire, install, or operate
7 facilities for the distribution or transmission of electricity to retail
8 customers located in the service territory of an electrical
9 corporation providing electric distribution services, unless the
10 district has first applied for and received the approval of the
11 commission and implements its service consistent with the
12 commission's order. The commission shall find that service to be
13 in the public interest and shall approve the request of a district to
14 provide distribution or transmission of electricity to retail customers
15 located in the service territory of an electrical corporation providing
16 electric distribution service if, after notice and hearing, the
17 commission determines all of the following:

18 (1) The district will provide universal service to all retail
19 customers who request service within the area to be served, at
20 published tariff rates and on a just, reasonable, and
21 nondiscriminatory basis, comparable to that provided by the current
22 retail service provider.

23 (2) If the area the district is proposing to serve is either of the
24 following:

25 (A) Is within the district's boundaries but less than the entire
26 district, the area to be served includes a percentage of residential
27 customers and small customers, based on load, comparable to the
28 percentage of residential and small customers in the district, based
29 on load.

30 (B) Includes territory outside the district's boundaries, in which
31 case the territory outside the district's boundaries must include a
32 percentage of residential customers and small customers, based
33 on load, comparable to the percentage of residential and small
34 customers in the county or counties where service is to be provided,
35 based on load.

36 (3) Service by the district will be consistent with the intent of
37 the state to avoid economic waste caused by duplication of facilities
38 as set forth in Section 8101.

1 (4) Service by the district will include reasonable mitigation of
2 any adverse effects on the reliability of an existing service by the
3 electrical corporation.

4 (5) The district has established, funded, and is carrying out
5 public purpose and low-income programs comparable to those
6 provided by the current electric retail service provider.

7 (6) That district's tariffed electric rates, exclusive of commodity
8 costs, will be at least 15 percent below the tariffed electric rates,
9 exclusive of commodity costs and ~~nonbypassable charges under~~
10 ~~Sections 367, 376, and 379, competition transition charges,~~ of the
11 electrical corporation for comparable services.

12 (7) Service by the district is in the public interest.

13 (c) An irrigation district that obtains the approval of the
14 commission under this section to serve an area shall prepare an
15 annual report available to the public on the total load and number
16 of accounts of residential, low-income, agricultural, commercial,
17 and industrial customers served by the irrigation district in the
18 approved service area.

19 (d) The commission shall have jurisdiction to resolve and
20 adjudicate complaint cases brought against an irrigation district
21 that offered electric service to retail customers as of January 1,
22 1999, by an interested party where the complaint concerns retail
23 electric service outside the boundaries of the district and within
24 the service territory of an electrical corporation. Nothing in this
25 section grants the commission jurisdiction to adjudicate complaint
26 cases involving retail electric service by an irrigation district inside
27 its boundaries or inside an irrigation district's exclusive service
28 territory.

29 (e) Any project involving electric transmission or distribution
30 facilities to be constructed or installed by an irrigation district to
31 serve retail customers located in the service territory of an electrical
32 corporation providing electric distribution services shall comply
33 with the California Environmental Quality Act, (Division 13
34 (commencing with Section 21000)) of the Public Resources Code.
35 The county in which the construction or installation is to occur
36 shall act as the lead agency. If a project involves the construction
37 or installation of electric transmission or distribution facilities in
38 more than one county, the county where the majority of the
39 construction is anticipated to occur shall act as the lead agency.

1 (f) An irrigation district may not offer service to customers
2 outside of its district boundaries before offering service to all
3 customers within its district boundaries.

4 (g) This section does not apply to electric distribution service
5 provided by Modesto Irrigation District to those customers or
6 within those areas described in subdivisions (a), (b), and (c) of
7 Section 9610.

8 (h) The provisions of this section shall not apply to (1) a
9 cumulative 90 megawatts of load served by the Merced Irrigation
10 District that is located within the boundaries of Merced Irrigation
11 District, as those boundaries existed on December 20, 1995,
12 together with the territory of Castle Air Force Base which was
13 located outside the district on that date, or (2) electric load served
14 by the district which was not previously served by an electric
15 corporation that is located within the boundaries of Merced
16 Irrigation District, as those boundaries existed on December 20,
17 1995, together with the territory of Castle Air Force Base which
18 was located outside the district on that date.

19 (i) For purposes of this section, a megawatt of load shall be
20 calculated in accordance with the methodology established by the
21 California Energy Resource Conservation and Development
22 Commission in its Docket No. 96-IRR-1890, but the 90 megawatts
23 shall not include electrical usage by customers that move to the
24 areas described in paragraph (1) after December 31, 2000.

25 (j) Subdivision (a) of this section shall not apply to the
26 construction, modification, lease, acquisition, installation, or
27 operation of facilities for the distribution or transmission of
28 electricity to customers electrically connected to a district as of
29 December 31, 2000, or to other customers who subsequently locate
30 at the same premises.

31 (k) In recognition of contractual arrangements and settlements
32 existing as of June 1, 2000, this section does not apply to the
33 acquisition or operation of the electric distribution facilities that
34 are the subject of the Settlement Agreement dated May 1, 2000,
35 between Pacific Gas and Electric Company and the San Joaquin
36 Irrigation District.

37 (l) For purposes of this section, retail customers do not include
38 an irrigation district's own electric load being served of retail by
39 an electrical corporation.

1 *SEC. 65. Section 31071.5 of the Streets and Highways Code*
2 *is amended to read:*

3 31071.5. (a) Bonds issued under this chapter may not be
4 deemed to constitute a debt or liability of the state or of any
5 political subdivision thereof, other than the bank, or a pledge of
6 the faith and credit of the state or of any political subdivision
7 thereof, but shall be payable solely from the account, and the assets
8 of the account, and the security provided by the account. All bonds
9 issued under this chapter shall contain on the face of the bonds a
10 statement to this effect.

11 (b) Notwithstanding any other provision of law, Article 3
12 (commencing with Section ~~63040~~) of, Article 4 (commencing with
13 ~~63042~~) of, 63040) and Article 5 (commencing with Section 63043)
14 of Chapter 2 of Division 1 of Title 6.7 of the Government Code
15 do not apply to any financing provided by the bank to, or at the
16 request of, the department in connection with the account.

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