

Senate Bill No. 477

CHAPTER 275

An act to amend Sections 63010 and 63025.1 of the Government Code, and to amend Sections 366, 367, 396, 454, 840, 841, 842, and 843 of, to add Sections 365.5, 366.5, 391, 392.1, 394.1, 394.2, 394.25, 394.27, 394.3, 394.4, 394.5, 394.6, 394.7, 394.8, and 394.9 to, and to repeal and add Sections 392 and 394 of, the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 1997. Filed with
Secretary of State August 15, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 477, Peace. Public utilities: electrical restructuring.

(1) The existing restructuring of the electrical services industry provides for the authorization of direct transactions between electricity suppliers and end use customers, subject to implementation of a nonbypassable charge.

Existing law provides for the issuance of rate reduction bonds for the recovery of transition costs, as defined, by electrical corporations, pursuant to the restructuring of the electrical services industry.

This bill would revise the definitions of "special purpose trust" and "transition property" for purposes of the issuance of the rate reduction bonds, would set forth the method for creating and perfecting a consensual security interest in transition property, and would make various technical changes in these provisions.

(2) Existing law establishes various consumer protections, including the requirement that each entity, other than an electrical corporation, offering electrical service to residential and small commercial customers within the service territory of an electrical corporation register with the Public Utilities Commission, and provide specified information to the commission. These provisions would be repealed on January 1, 2002.

This bill would make legislative findings and declarations regarding the need for restructuring of the electrical industry.

The bill would extend the consumer protection provisions indefinitely, would include electrical corporations, as well as unregulated affiliates and subsidiaries, within the purview of these requirements, and would exempt a public agency that aggregates electrical services pursuant to existing law within its jurisdiction from these requirements.

The bill would expand the registration provisions to require additional information and payment of a registration fee, as specified,

and would direct the commission to require any electrical corporation or entity that requires a deposit or advance payment prior to rendering electrical services to procure a performance bond prior to registration. This bill would set forth specified criteria for approval, denial, suspension, and revocation of registration.

The bill would require the commission to adopt rules that contain various standards of conduct for the entities that are required to be registered, and would provide specified rights and remedies for consumers who deal with the registered entities, and sanctions for those entities that violate the applicable provisions. It would require the commission to annually determine the costs of administering the registration program, and other facets of consumer protection directly related to the direct access transactions of registered entities.

The bill would also require, as specified, the commission to compile and regularly update information on competitive market options to be available to consumers, and require the commission to issue public alerts about unauthorized or fraudulent companies attempting to do business in the state. It would impose additional consumer protections, including requiring the commission to maintain a list of residential customers who do not wish to be solicited.

This bill would reorganize existing law provisions relating to voluntary aggregation of customer electrical loads.

Under existing law, a public utility may not change any rate or alter a classification, contract, practice, or rule unless a showing is made before the commission and a finding is made that the change is justified. The utility is required to furnish its affected customers with notice of its application for approval of the new rate containing, among other information, the mailing address of the commission to which customer inquiries may be made.

This bill would require the notice to also include the e-mail address of the commission, if it is available.

(3) Since existing law makes any public utility, as defined, and any corporation other than a public utility, that violates the Public Utilities Act guilty of a misdemeanor, and these provisions of the bill would be within the act, this bill would impose a state-mandated local program by creating a new crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would declare that it is to take effect immediately as an urgency statute.



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

SECTION 1. The Legislature finds and declares both of the following:

(a) The setting of utility rates, as well as modifications to existing rates, must be approved by the Public Utilities Commission.

(b) As deregulation will increasingly enable utility customers to make choices about their utility providers, customers must be given ample time to consider the impact of any changes to existing rates and the ability, if they desire, to communicate quickly with decisionmakers at the Public Utilities Commission about any concerns regarding those rates.

SEC. 2. Section 63010 of the Government Code is amended to read:

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

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

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

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

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

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

(f) “Cost,” as applied to a project or portion thereof financed under this division, means all or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery, equipment, and financing charges; interest prior to, during, and for a period after, completion of construction, renovation, or acquisition, as determined by the bank; provisions for working capital; reserves for principal and



interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project or incidental to the construction, acquisition, or financing of any project, and transition costs in the case of an electrical corporation.

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

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

(i) “Facilities” means real and personal property, structures, conveyances, equipment, thoroughfares, buildings, and supporting components thereof that are directly related to providing the following:

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

(A) An existing municipal roadway.

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

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

(3) “Drainage and flood control” includes ditches, canals, levees, pumps, dams, conduits, pipes, storm sewers, and dikes necessary to keep or direct water away from people, equipment, buildings, and other protected areas as may be established by lawful authority, as well as the acquisition, improvement, maintenance, and management of floodplain areas and all equipment used in the maintenance and operation of the foregoing.

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

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



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

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

(8) “Communications” includes facilities for telephone and telecommunications service.

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

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

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

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

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

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

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

(j) “Financial assistance” in connection with a project, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the bank or special purpose trust, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board or the sponsor, or both; the purchase or retention of bank bonds, the bonds of a sponsor for



their retention or for sale by the bank, or the issuance of bank bonds or the bonds of a special purpose trust used to fund the cost of a project for which a sponsor is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by Section 63025; bonds for which the bank has provided a guarantee or enhancement, including, but not limited to, the purchase of the subordinated bonds of the sponsor, the subordinated bonds of a special purpose trust, or the retention of the subordinated bonds of the bank pursuant to Chapter 4 (commencing with Section 63060); or any other type of assistance deemed appropriate by the bank or the sponsor, except that no direct loans shall be made to nonpublic entities other than in connection with the issuance of rate reduction bonds pursuant to a financing order.

For purposes of this subdivision, “grant” does not include grants made by the bank except when acting as an agent or intermediary for the distribution or packaging of financing available from federal, private, or other public sources.

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

(l) “Guarantee trust fund” means the California Infrastructure Guarantee Trust Fund.

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

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

(o) “Participating party” means any person, company, corporation, partnership, firm, or other entity or group of entities engaged in business within the state and that applies for financing from the bank in conjunction with a sponsor for the purpose of implementing a project. However, in the case of a project relating to the financing of transition costs or the acquisition of transition property, or both, on the request of an electrical corporation, the participating party shall be deemed to be the same entity as the sponsor for the financing.

(p) “Project” means designing, acquiring, planning, permitting, entitling, constructing, improving, extending, restoring, financing, and generally developing facilities within the state or financing transition costs or the acquisition of transition property, or both, upon approval of a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

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



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

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

(t) “Sponsor” means any subdivision of the state or local government including departments, agencies, commissions, cities, counties, nonprofit corporations formed on behalf of a sponsor, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions that has, or proposes to acquire, an interest in a project and that makes application to the bank for financial assistance in connection with a project in a manner prescribed by the bank. In addition, an electrical corporation shall be deemed to be the sponsor as well as the participating party for any project relating to the financing of transition costs and the acquisition of transition property on the request of the electrical corporation.

(u) “State” means the State of California.

(v) “Transition costs” has the meaning set forth in Section 840 of the Public Utilities Code.

(w) “Transition property” has the meaning set forth in Section 840 of the Public Utilities Code.

SEC. 3. Section 63025.1 of the Government Code is amended to read:

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

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

(b) As provided in Chapter 5 (commencing with Section 63070), issue bonds and authorize special purpose trusts to issue bonds,



including, at the option of the board, bonds bearing interest that is taxable for the purpose of federal income taxation, to pay all or any part of the cost of any project.

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

(d) Employ attorneys, financial consultants, and other advisers as may, in the bank's judgment, be necessary in connection with the issuance and sale, or authorization of special purpose trusts for the issuance and sale, of any bonds, notwithstanding Sections 11042 and 11043.

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

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

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

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

(i) Make secured loans to any sponsor or participating party in connection with the financing of a project in accordance with an agreement between the bank and the sponsor or a participating party. However, no loan shall exceed the total cost of the project as determined by the sponsor or the participating party and approved by the bank.

(j) Make secured loans to any sponsor or participating party in accordance with an agreement between the bank and the sponsor or participating party to refinance indebtedness incurred by the sponsor or participating party in connection with projects undertaken and completed prior to any agreement with the bank or expectation that the bank would provide financing.

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

(l) Assign or pledge all or any portion of the bank's interests in transition property and the revenues therefrom, or assets, things of



value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a sponsor or a participating party to which the bank has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the bank, for the benefit of the holders of bonds.

(m) Receive or serve as a conduit for the making of grants, and provide for contributions, guarantees, insurance, credit enhancements or liquidity facilities, or other financial enhancements to a sponsor or a participating party as financial assistance for a project.

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

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

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

(q) Notwithstanding any other provision of this division, enter into any agreement, contract, or any other instrument with respect to any insurance or guarantee; accept payment in the manner and form as provided therein in the event of default by a sponsor or a participating party; and issue or assign any insurance or guarantee as security for the bank's bonds.

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the bank's bonds, the bonds issued by a special purpose trust, or a sponsor's obligations to the bank or to a special purpose trust, including, but not limited to, bonds of a sponsor purchased by the bank or a special purpose trust for retention or sale, with funds or moneys that are legally available and that are due or payable to the sponsor by reason of any grant, allocation,



apportionment or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally available to the sponsor, the bank, or the state or any agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof; and in the event of written notice that the sponsor has not paid or is in default on its obligations to the bank or a special purpose trust, direct the Controller to withhold payment of those funds or moneys from the sponsor over which it is or will be custodian and to pay the same to the bank or special purpose trust or their assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt by the bank or special purpose trust or their assignee, until the default has been cured and the amounts then due and unpaid have been paid to the bank or special purpose trust or their assignee, or until arrangements satisfactory to the bank or special purpose trust have been made to cure the default.

(s) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or appropriate to carry out any power expressly given to the bank by this division, including, but not limited to, agreements for the sale of all or any part, including principal, interest, redemption rights or any other rights or obligations, of bonds of the bank or of a special purpose trust, liquidity agreements, contracts commonly known as interest rate swap agreements, forward payment conversion agreements, futures or contracts providing for payments based on levels of, or changes in, interest rates or currency exchange rates, or contracts to exchange cash-flows or a series of payments, or contracts, including options, puts or calls to hedge payments, rate, spread, currency exchange, or similar exposure, or any other financial instrument commonly known as a structured financial product.

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

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



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

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

(x) Approve the issuance of any bonds, notes, or other evidences of indebtedness by the California Economic Development and Financing Authority, established pursuant to Section 15712, and the Rural Economic Development Infrastructure Panel, established pursuant to Section 15373.7.

(y) Approve the issuance of rate reduction bonds by an entity other than the bank or a special purpose trust to acquire transition property upon approval of the transaction in a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

SEC. 4. Section 365.5 is added to the Public Utilities Code, to read:

365.5. Nothing in this chapter shall prevent the commission from exercising its authority to investigate a process for certification and regulation of the rates, charges, terms, and conditions of default service. If the commission determines that a process for certification and regulation of default service is in the public interest, the commission shall submit its findings and recommendations to the Legislature for approval.

SEC. 5. Section 366 of the Public Utilities Code is amended to read:

366. (a) The commission shall take actions as needed to facilitate direct transactions between electricity suppliers and end use customers. Customers shall be entitled to aggregate their electric loads on a voluntary basis, provided that each customer does so by a positive written declaration. If no positive declaration is made by a customer, that customer shall continue to be served by the existing electrical corporation or its successor in interest.

(b) Aggregation of customer electrical load shall be authorized by the commission for all customer classes, including, but not limited to



small commercial or residential customers. Aggregation may be accomplished by private market aggregators, cities, counties, special districts or on any other basis made available by market opportunities and agreeable by positive written declaration by individual consumers.

(c) If a public agency seeks to serve as a community aggregator on behalf of residential customers, it shall be obligated to offer the opportunity to purchase electricity to all residential customers within its jurisdiction.

SEC. 6. Section 366.5 is added to the Public Utilities Code, to read:

366.5. (a) No change in the aggregator or supplier of electric power for any small commercial customer may be made until one of the following means of confirming the change has been completed.

(1) Independent third-party telephone verification.

(2) Receipt of a written confirmation received in the mail from the consumer after the consumer has received an information package confirming the agreement.

(3) The customer signs a document fully explaining the nature and effect of the change in service.

(4) The customer's consent is obtained through electronic means, including but not limited to, computer transactions.

(b) No change in the aggregator or provider of electric power for any residential customer may be made until the change has been confirmed by an independent third-party verification company, as follows:

(1) The third-party verification company shall meet each of the following criteria:

(A) Be independent from the entity that seeks to provide the new service.

(B) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by an entity that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the entity.

(C) Operate from facilities physically separate from those of the entity that seeks to provide the new service.

(D) Not derive commission or compensation based upon the number of sales confirmed.

(2) The entity seeking to verify the sale shall do so by connecting the resident by telephone to the third-party verification company or by arranging for the third-party verification company to call the customer to confirm the sale.

(3) The third-party verification company shall obtain the customer's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the customer upon request. Information obtained from the customer through confirmation shall not be used



for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved resident against the entity or its employees who are responsible for the violation.

(4) Notwithstanding paragraphs (1), (2), and (3), an aggregator or provider of electric power shall not be required to comply with these provisions when the customer directly calls an aggregator or provider of electric power to change service providers. However, an aggregator or provider of electric power shall not avoid the verification requirements by asking a customer to contact an aggregator or provider of electric power directly to make any change in the service provider.

(c) Any aggregator or provider of electric power offering electricity service to residential and small commercial customers that violates the verification procedures described in this section shall be liable to the aggregator or provider of electric power offering electricity services previously selected by the customer in an amount equal to all charges paid by the customer after the violation.

(d) A change in provider of electric power by an aggregator is not a change in provider of electric power for purposes of this section.

(e) Public agencies are exempt from this section to the extent they are serving customers within their jurisdiction.

(f) An electrical corporation is exempt from this section for customers which default to the service of the electrical corporation.

SEC. 7. Section 367 of the Public Utilities Code is amended to read:

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

(a) Be amortized over a reasonable time period, including collection on an accelerated basis, consistent with not increasing rates for any rate schedule, contract, or tariff option above the levels



in effect on June 10, 1996; provided that, the recovery shall not extend beyond December 31, 2001, except as follows:

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

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

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

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

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

(6) Fixed transition amounts, as defined in subdivision (d) of Section 840, may be recovered from the customers specified in subdivision (a) of Section 841 until all rate reduction bonds associated with the fixed transition amounts have been paid in full by the financing entity.

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

(c) Be limited in the case of utility-owned fossil generation to the uneconomic portion of the net book value of the fossil capital investment existing as of January 1, 1998, and appropriate costs



incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that the additions are necessary to maintain the facilities through December 31, 2001. All “going forward costs” of fossil plant operation, including operation and maintenance, administrative and general, fuel and fuel transportation costs, shall be recovered solely from independent Power Exchange revenues or from contracts with the Independent System Operator, provided that for the purposes of this chapter, the following costs may be recoverable pursuant to this section:

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

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

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

(e) (1) Be allocated among the various classes of customers, rate schedules, and tariff options to ensure that costs are recovered from these classes, rate schedules, contract rates, and tariff options, including self-generation deferral, interruptible, and standby rate options in substantially the same proportion as similar costs are recovered as of June 10, 1996, through the regulated retail rates of the relevant electric utility, provided that there shall be a firewall segregating the recovery of the costs of competition transition charge



exemptions such that the costs of competition transition charge exemptions granted to members of the combined class of residential and small commercial customers shall be recovered only from these customers, and the costs of competition transition charge exemptions granted to members of the combined class of customers, other than residential and small commercial customers, shall be recovered only from these customers.

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

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

SEC. 8. Section 391 is added to the Public Utilities Code, to read:

391. The Legislature finds and declares all of the following:

(a) Electricity is essential to the health, safety, and economic well-being of all California consumers.

(b) The restructuring of the electricity industry will create a new electricity market with new marketers and sellers offering new goods and services, many of which may not be readily evaluated by the average consumer.

(c) It is important that these customers be protected from unfair marketing practices and that market participants demonstrate their creditworthiness and technical expertise in order to engage in power sales to these members of the public.

(d) Larger commercial and industrial customers are sophisticated energy consumers that have adequate civil remedies and are adequately protected by existing commercial law, as demonstrated by the absence of significant amounts of contract litigation between commercial and industrial natural gas users and natural gas marketers in California.

(e) It is important to create a market structure that will not unduly burden new entrants into the competitive electric market, or California may not receive the full benefits of reduced electricity costs through competition.

(f) It is appropriate to create a system of registration and consumer protection for the electric industry, designed to ensure sufficient protection for residential and small commercial consumers while simplifying entry into the market for responsible entities serving larger, more sophisticated customers.

(g) It is the intent of the Legislature that:

(1) Electricity consumers be provided with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market.



(2) Consumers be provided with mechanisms to protect themselves from marketing practices that are unfair or abusive.

(3) Pursuant to the authority granted to the commission in this part as to registration and consumer protection matters, the commission shall balance the need to maximize competition by reducing barriers to entry into the small retail electricity procurement market with the need to protect small consumers against deceptive, unfair, or abusive business practices, or insolvency of the entity offering retail electric service.

(h) It is the intent of the Legislature in enacting this act to further the policies of AB 1890 (Chapter 854, Statutes of 1996) relating to electric industry restructuring.

SEC. 9. Section 392 of the Public Utilities Code is repealed.

SEC. 10. Section 392 is added to the Public Utilities Code, to read:

392. (a) (1) Electrical corporations shall disclose each component of the electrical bill as follows:

(A) The total charges associated with transmission and distribution, including that portion comprising the research, environmental, and low-income funds.

(B) The total charges associated with generation, including the competition transition charge.

(2) Electrical corporations shall provide conspicuous notice that if the customer elects to purchase electricity from another provider that customer will continue to be liable for payment of the competition transition charge. This paragraph does not prohibit the commission from requiring additional information.

(b) Prior to the implementation of the competition transition charge, electric corporations, in conjunction with the commission, shall devise and implement a customer education program informing customers of the changes to the electric industry. The program shall provide customers with information necessary to help them make appropriate choices as to their electric service. The education program shall be subject to approval by the commission.

(c) The standard bill format developed by the commission pursuant to subdivision (e) of Section 394.4 shall also apply to electrical corporations.

SEC. 11. Section 392.1 is added to the Public Utilities Code, to read:

392.1. (a) The commission shall compile and regularly update the following information: names and contact numbers of registered providers, information to assist consumers in making service choices, and the number of customer complaints against specific providers in relation to the number of customers served by those providers and the disposition of those complaints. To facilitate this function, registered entities shall file with the commission information describing the terms and conditions of any standard service plan made available to residential and small commercial customers. The



commission shall adopt a standard format for this filing. The commission shall maintain and make generally available a list of entities offering electrical services operating in California. This list shall include all registered providers and those providers not required to be registered who request the commission to be included in the list. The commission shall, upon request, make this information available at no charge. Notwithstanding any other provision of law, public agencies which are registered entities shall be required to disclose their terms and conditions of service contracts only to the same extent that other registered entities would be required to disclose the same or similar service contracts.

(b) The commission shall issue public alerts about companies attempting to provide electric service in the state in an unauthorized or fraudulent manner as defined in subdivision (b) of Section 394.25.

(c) The commission shall direct the Office of Ratepayer Advocates to collect and analyze information provided pursuant to subdivision (a) for purposes of preparing easily understandable informational guides or other tools to help residential and small commercial customers understand how to evaluate competing electric service options. In implementing these provisions, the commission shall direct the Office of Ratepayer Advocates to pay special attention to ensuring that customers, especially those with limited-English-speaking ability or other disadvantages when dealing with marketers, receive correct, reliable, and easily understood information to help them make informed choices. The Office of Ratepayer Advocates shall not make specific recommendations or rank the relative attractiveness of specific service offerings of registered providers of electric services.

SEC. 12. Section 394 of the Public Utilities Code is repealed.

SEC. 13. Section 394 is added to the Public Utilities Code, to read:

394. (a) Each entity offering electrical service to residential and small commercial customers shall register with the commission, unless it is an electrical corporation as defined in Section 218, or a public agency offering electrical service to residential and small commercial customers within its own political jurisdiction, or within the service territory of a local publicly owned electric utility.

For purposes of this section the term “entity” shall include the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218. As a precondition to registration, the entity shall provide, under oath, declaration, or affidavit, the following information to the commission:

- (1) Legal name and any other names under which the entity is doing business in California.
- (2) Current telephone number.
- (3) Current address.
- (4) Agent for service of process.
- (5) State and date of incorporation, if any.



(6) Number for a customer contact representative, or other personnel for receiving customer inquiries.

(7) Brief description of the nature of the service being provided.

(8) Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed within the 10 years immediately prior to registration, against the company or any officer or director of the company pursuant to any state or federal consumer protection law or regulation, and of any felony convictions of any kind against the company or any officer or director of the company.

(9) Proof of financial viability. The commission shall develop uniform standards for determining financial viability and shall publish those standards for public comment no later than March 31, 1998. In determining the financial viability of the entity, the commission shall take into account the number of customers the potential registrant expects to serve, the number of kilowatt hours of electricity it expects to provide, and any other appropriate criteria in order to ensure that residential and small commercial customers have adequate recourse in the event of fraud or nonperformance.

(10) Proof of technical and operational ability. The commission shall develop uniform standards for determining technical and operational capacity and shall publish those standards for public comment no later than March 31, 1998.

(b) Any registration filing approved by the commission prior to the effective date of this section which does not comply in all respects with the requirements of subdivision (a) of Section 394 shall nevertheless continue in force and effect so long as within 90 days of the effective date of this section the registered entity undertakes to supplement its registration filing to the satisfaction of the commission. Any registration which is not supplemented by the required information within the time set forth in this subdivision shall be suspended by the commission and shall not be reinstated until the commission has found the registration to be in full compliance with subdivision (a) of Section 394.

(c) Any public agency offering aggregation services as provided for in Section 366 solely to retail electric customers within its jurisdiction which has registered with the commission prior to the enactment of this section shall have the right to voluntarily withdraw its registration to the extent that it is exempted from registration under the provisions of this chapter.

(d) Before reentering the market, entities whose registration has been revoked shall file a formal application with the commission which satisfies the requirements set forth in Section 394.1 and demonstrates the entity's fitness and ability to comply with all applicable rules of the commission.

(e) Registration with the commission is an exercise of the licensing function of the commission, and does not constitute regulation of the rates or terms and conditions of service offered by registered entities.



Nothing in this part authorizes the commission to regulate the rates or terms and conditions of service offered by registered entities.

SEC. 14. Section 394.1 is added to the Public Utilities Code, to read:

394.1. (a) The registration shall be deemed approved and a registration number issued no later than 45 days after the required information has been submitted, unless the commission's executive director finds, upon review of the information submitted by the entity or available to the commission, that there is evidence to support a finding that the entity has committed an act constituting grounds for denial of registration as specifically set forth in the operative provisions of this chapter, including, but not limited to, subdivision (c).

(b) Upon a finding by the commission's executive director that there is evidence to support a finding that the entity has committed an act constituting grounds for denial of registration as set forth in this section, the commission shall notify the entity in writing, cause the documents submitted by the entity to be filed as a formal application for registration, and notice an expedited hearing on the entity's registration to be held within 30 days of the notification to the entity of the executive director's finding of evidence to support denial of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the registration request which shall be based on the findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(c) The commission may deny an application for registration in accordance with the provisions of subdivision (b) on the grounds that the entity or any officer or director of the entity has one or more of the following:

(1) Been convicted of a crime as described in paragraph (8) of subdivision (a) of Section 394.

(2) Failure to make a sufficient showing with respect to paragraphs (1) to (10), inclusive, of subdivision (a) of Section 394.

(3) Knowingly made a false statement of fact in the application for registration.

The commission may deny registration pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties required to provide retail electric service to end use customers of electricity or the false statement is material to the registration application. For purposes of this subdivision, conviction of a crime shall be established in the same manner as that set forth in paragraph (1) of subdivision (a) of Section 480 of the Business and Professions Code.

(d) The commission shall require entities registered under this section to update their registration information set forth in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 394



within 60 days of any material change in the information provided. Material changes to any other information required pursuant to this article shall be updated annually.

SEC. 15. Section 394.2 is added to the Public Utilities Code, to read:

394.2. (a) The commission shall accept, compile, and attempt to informally resolve consumer complaints regarding registered entities. Where the commission reasonably suspects a pattern of customer abuses, the commission may, on its own motion, initiate investigations into the activities of entities offering electrical service. Consumer complaints regarding service by a public agency offering electric service within the political boundary of the public agency or service territory of a local publicly owned electric utility shall continue to be resolved by the public agency. Within the service territory of a local publicly owned utility, consumer complaints arising from the violation of direct access rules adopted by the governing body of the local publicly owned utility shall be resolved through the local publicly owned utility's consumer complaint procedures.

(b) Notwithstanding other provisions, residential and small commercial customers shall have the option to proceed with a complaint against a registered entity either through an action filed in the judicial court system or through a complaint filed with the commission. A customer who elects either the judicial or commission remedies may not raise the same claim in both forums. The commission shall have the authority to accept, compile, and resolve residential, and small commercial consumer complaints, including the authority to award reparations. The commission's authority in these complaint proceedings is limited to adjudication of complaints regarding residential and small commercial electric service provided by a registered entity and shall not be expanded to include either an award of any other damages or regulation of the rates or charges of the registered entity. However, a person or entity which takes a conflict to the commission shall not be precluded from pursuing an appeal of the decision through the courts as provided for in law.

(c) In connection with customer complaints or commission investigations into customer abuses, registered entities shall provide the commission access to their accounts, books, papers, and documents related to California transactions as described in Sections 313 and 314, provided the information is relevant to the complaint or investigation.

(d) No registered entity may discontinue service to a customer for a disputed amount if that customer has filed a complaint that is pending with the commission, and that customer has paid the disputed amount into an escrow account.

SEC. 16. Section 394.25 is added to the Public Utilities Code, to read:



394.25. (a) The commission may enforce the provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against registered entities as if those entities were public utilities as defined in these code sections. Notwithstanding the above, nothing in this section shall grant the commission jurisdiction to regulate registered entities other than as specifically set forth in this part. Registered entities shall continue to be subject to the provisions of Sections 2111 and 2112. Upon a finding by the commission's executive director that there is evidence to support a finding that the entity has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the entity in writing and notice an expedited hearing on the suspension or revocation of the entity's registration to be held within 30 days of the notification to the entity of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(b) A registered entity may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:

(1) Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.

(2) Dishonesty, fraud, or deceit with the intent to substantially benefit the registered entity or its employees, agents, or representatives, or to disadvantage retail electric customers.

(3) Where the commission finds that there is evidence that the entity is not financially or operationally capable of providing the offered electric service.

(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the entity to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until such time as they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any entity under the service agreement in the event the serving electric service provider's registration is suspended or revoked.

SEC. 17. Section 394.27 is added to the Public Utilities Code, to read:



394.27. When a customer files a claim with an electrical corporation for damages to property resulting from the curtailment of electric service due to the failure of the electrical corporation to reasonably provide service or restore service within a reasonable time after a fire, flood, earthquake, other natural disaster, or act of God, the electric corporation shall inform the customer that such claim may be pursued in small claims court or other judicial courts, depending on the amount of the claim.

SEC. 18. Section 394.3 is added to the Public Utilities Code, to read:

394.3. In order to carry out essential elements of a sustainable and effective consumer protection program in connection with registered entities offering electrical service to residential and small commercial customers as intended by the Legislature in this article, the following shall apply:

(a) A registration fee of one hundred dollars (\$100) shall be collected from entities required to register under this article, and the fee proceeds shall be deposited in the Public Utilities Reimbursement Account established under Section 402.

(b) The commission shall annually determine the costs of administering the registration program and other facets of consumer protection directly related to the direct access transactions of registered entities, including the cost for the duties imposed pursuant to subdivision (c) of Section 392.1. The commission shall only collect those costs not already being collected elsewhere. Registrants who fail to submit to the commission required fees or information upon which fees are calculated within 30 days of billing shall be subject to a 15-percent penalty.

SEC. 19. Section 394.4 is added to the Public Utilities Code, to read:

394.4. Rules that implement the following minimum standards shall be adopted by the commission for registered entities offering electrical services to residential and small commercial customers and the governing body of a public agency offering electrical services to residential and small commercial customers within its jurisdiction:

(a) Confidentiality: Customer information shall be confidential unless the customer consents in writing. This shall encompass confidentiality of customer specific billing, credit, or usage information. This requirement shall not extend to disclosure of generic information regarding the usage, load shape, or other general characteristics of a group or rate classification, unless the release of that information would reveal customer specific information because of the size of the group, rate classification, or nature of the information.

(b) Physical disconnects and reconnects: Only an electrical corporation, or a publicly owned electric utility, that provides physical delivery service to the affected customer shall have the



authority to physically disconnect or reconnect a customer from the transmission or distribution grid. Physical disconnection by electrical corporations subject to the commission's jurisdiction shall occur only in accordance with protocols established by the commission. Physical disconnection by publicly owned electric utilities shall occur only in accordance with protocols established by the governing board of the local publicly owned electric utility.

(c) Change in providers: Upon adequate notice supplied by a registered entity to the electric corporation or local publicly owned electric utility providing physical delivery service, customers who are eligible for direct access may change their energy supplier. Energy suppliers may charge for such a change, provided that any fee or penalty charged by the supplier associated with early termination of service, shall be disclosed in that contract or applicable tariff.

(d) Written notices: Notices describing the terms and conditions of service as described in Section 394.5, service agreements, notices of late payment, notices of discontinuance of service, and disconnection notices addressed to residential and small commercial customers shall be easily understandable, and shall be provided in the language in which the entity offered the services.

(e) Billing: All bills shall have a standard bill format, as determined by the commission or the governing body, and shall contain sufficient detail for the customer to recalculate the bill for accuracy. Any late fees shall be separately stated. Each registered entity shall provide on all customer bills a phone number by which customers may contact the entity to report and resolve billing inquiries and complaints. A registered entity contacted by a customer regarding a billing dispute shall advise the customer at the time of the initial contact that the customer may file a complaint with the commission if its dispute is not satisfactorily resolved by the registered entity.

(f) Meter integrity: An electric customer shall have a reasonable opportunity to have its meter tested to ensure the reasonable accuracy of the meter. The commission or governing body shall determine who is responsible for the cost of that testing.

(g) Customer deposits: Registered entities may require customer deposits before commencing service, but in no event shall the deposit be more than the estimated bill for the customer for a three-month period.

(h) Additional protections: The commission or the governing body may adopt additional residential and small commercial consumer protection standards which are in the public interest.

SEC. 20. Section 394.5 is added to the Public Utilities Code, to read:

394.5. (a) Except for an electrical corporation as defined in Section 218, or a local publicly owned electric utility as defined in subdivision (d) of Section 9604 offering electrical service to



residential and small commercial customers within its service territory, each entity offering electrical service to residential and small commercial customers shall, prior to the commencement of service, provide the potential customer with a written notice of the service describing the price, terms, and conditions of the service. The notices shall include all of the following:

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

(A) The price of electricity expressed in a format which makes it possible for residential and small commercial customers to compare and select among similar products and services on a standard basis. The commission shall adopt rules to implement this subdivision. The commission shall require disclosure of the total price of electricity on a cents-per-kilowatt-hour basis, including the costs of all electric services and charges regulated by the commission. The commission shall also require estimates of the total monthly bill for the electric service at varying consumption levels, including the costs of all electric services and charges regulated by the commission. In determining these rules, the commission may consider alternatives to the cent-per-kilowatt-hour disclosure if other information would provide the customer with sufficient information to compare among alternatives on a standard basis.

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

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

(2) An explanation of the applicability and amount of the competition transition charge, as determined pursuant to Sections 367 to 376, inclusive.

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

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

(5) The entity's registration number, if applicable.

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

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

(b) The commission may assist registered entities in developing the notice. The commission may suggest inclusion of additional information it deems necessary for the consumer protection purposes of this section. On at least a semiannual basis, registered entities shall provide the commission with a copy of the form of notice included in standard service plans made available to residential and



small commercial customers as described in subdivision (a) of Section 392.1.

(c) Any entity offering electric services who declines to provide those services to a consumer shall, upon request of the consumer, disclose to that consumer the reason for the denial in writing within 30 days. At the time service is denied, the entity shall disclose to the consumer his or her right to make such a request. Consumers shall have at least 30 days from the date service is denied to make such a request.

SEC. 21. Section 394.6 is added to the Public Utilities Code, to read:

394.6. For purposes of this article, service territory of a local publicly owned electric utility means within the boundaries of its service territory as it existed on December 20, 1995, or within the boundaries specified in an applicable service territory boundary agreement entered into pursuant to Article 1 (commencing with Section 8101) of Division 4, or any other provision of law, between an electrical corporation and the affected local publicly owned electric utility, or within the boundaries specified in an applicable service territory boundary agreement between one local publicly owned electric utility and another local publicly owned electric utility. Furthermore, for purposes of this article, the boundaries of the Merced Irrigation District shall be as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base, which was located outside of the district on that date.

SEC. 22. Section 394.7 is added to the Public Utilities Code, to read:

394.7. (a) The commission shall maintain a list of residential and small commercial customers who do not wish to be solicited by telephone, by an electric corporation, marketer, broker, or aggregator for electric service, to subscribe to or change their electric service provider. The commission shall not assess a charge for inclusion of a customer on the list. The list shall be updated periodically, but no less than quarterly.

(b) The list shall include sufficient information for electric corporations, marketers, brokers, or aggregators of electric service to identify customers who do not wish to be solicited, including a customer's address and telephone number. The list shall be made accessible electronically from the commission to any party regulated as an electric corporation or registered at the commission as an electric marketer, broker, or aggregator of electric service.

(c) An electric corporation, marketer, broker, or aggregator of electric service shall not solicit, by telephone, any customer on the list prepared pursuant to subdivision (a). Any electric corporation, marketer, broker, or aggregator of electric service, or the representative of an electric corporation, marketer, broker, or aggregator of electric service, who solicits any customer on the list



prepared pursuant to subdivision (a) more than once shall be liable to the customer for twenty-five dollars (\$25) for each contact in violation of this subdivision.

(d) This section shall not apply to the telephone verification required pursuant to Section 366.5.

SEC. 23. Section 394.8 is added to the Public Utilities Code, to read:

394.8. Notwithstanding any other provision of this article, requirements placed on a registered entity shall not apply to electrical services provided by a local publicly owned electric utility to customers within the jurisdiction or service territory of that local publicly owned electric utility.

SEC. 24. Section 394.9 is added to the Public Utilities Code, to read:

394.9. Unclaimed refunds ordered by the commission, and any accrued interest, may be used by the commission to fund additional consumer protection efforts.

SEC. 25. Section 396 of the Public Utilities Code is amended to read:

396. (a) A consumer damaged by a violation of this article by an entity offering electrical service is entitled to recover all of the following:

- (1) Actual damages.
- (2) The consumer's reasonable attorney's fees and court costs.
- (3) Exemplary damages, in the amount the court deems proper, for intentional or willful violations.
- (4) Equitable relief as the court deems proper.

(b) The rights, remedies, and penalties established by this article are in addition to the rights, remedies, or penalties established under any other law.

(c) Nothing in this article shall abrogate any authority of the Attorney General to enforce existing law.

SEC. 26. Section 454 of the Public Utilities Code is amended to read:

454. (a) Except as provided in Sections 454.1 and 455, no public utility shall change any rate or so alter any classification, contract, practice, or rule as to result in any new rate, except upon a showing before the commission and a finding by the commission that the new rate is justified. Whenever any electrical, gas, heat, telephone, water, or sewer system corporation files an application to change any rate, other than a change reflecting and passing through to customers only new costs to the corporation which do not result in changes in revenue allocation, for the services or commodities furnished by it, the corporation shall furnish to its customers affected by the proposed rate change notice of its application to the commission for approval of the new rate. This notice requirement does not apply to any rate change proposed by a corporation pursuant to an advice



letter submitted to the commission in accordance with commission procedures for this means of submission. The procedures for advice letters may include provision for notice to customers or subscribers on a case-by-case basis, as determined by the commission. The corporation may include the notice with the regular bill for charges transmitted to the customers within 45 days if the corporation operates on a 30-day billing cycle, or within 75 days if the corporation operates on a 60-day billing cycle. If more than one application to change any rate is filed within a single billing cycle, the corporation may combine the notices into a single notice if the applications are separately identified. The notice shall state the amount of the proposed rate change expressed in both dollar and percentage terms for the entire rate change as well as for each customer classification, a brief statement of the reasons the change is required or sought, and the mailing, and if available, the e-mail address of the commission to which any customer inquiries may be directed regarding how to participate in, or receive further notices regarding the date, time, or place of, any hearing on the application, and the mailing address of the corporation to which any customer inquiries relative to the proposed rate change may be directed.

(b) The commission may adopt rules it considers reasonable and proper for each class of public utility providing for the nature of the showing required to be made in support of proposed rate changes, the form and manner of the presentation of the showing, with or without a hearing, and the procedure to be followed in the consideration thereof. Rules applicable to common carriers may provide for the publication and filing of any proposed rate change together with a written showing in support thereof, giving notice of the filing and showing in support thereof to the public, granting an opportunity for protests thereto, and to the consideration of, and action on, the showing and any protests filed thereto by the commission, with or without hearing. However, the proposed rate change does not become effective until it has been approved by the commission.

(c) The commission shall permit individual public utility customers and subscribers affected by a proposed rate change, and organizations formed to represent their interests, to testify at any hearing on the proposed rate change, except that the presiding officer need not allow repetitive or irrelevant testimony and may conduct the hearing in an efficient manner.

SEC. 27. Section 840 of the Public Utilities Code is amended to read:

840. For the purposes of this article, the following terms shall have the following meanings:

(a) "Bank" means the California Infrastructure and Economic Development Bank.



(b) “Financing entity” means the bank, any special purpose trust, as defined in Section 63010 of the Government Code, that is authorized by the bank to issue rate reduction bonds or acquire transition property, or any other entity authorized by the bank to issue rate reduction bonds or acquire transition property, or both. The bank may authorize an entity other than a special purpose trust, as defined in Section 63010 of the Government Code, to issue rate reduction bonds only if all of the following conditions are met:

(1) The bank by resolution has determined that allowing another entity to issue rate reduction bonds would produce greater overall ratepayer savings, taking into account all relevant considerations including, but not limited to, the exclusion of interest on rate reduction bonds issued by the bank from investors’ gross income for California or federal income tax purposes, or both, earnings on funds collected and held by the electrical corporation prior to deposit in a fund or account for the benefit of holders of rate reduction bonds, and all costs of issuance and other transaction costs.

(2) The bank submits to the Joint Legislative Budget Committee a certified copy of the bank’s resolution, together with a report setting forth the basis for the bank’s determination that a financing entity other than the bank or a special purpose trust will produce greater ratepayer savings and at least 30 days have elapsed from the date of submission.

(c) “Financing order” shall mean an order of the commission adopted in accordance with this article, which shall include, without limitation, a procedure to require the expeditious approval by the commission of periodic adjustments to fixed transition amounts included therein to ensure recovery of all transition costs and the costs of capital associated with the proposed provision, recovery, financing, or refinancing thereof, including the costs of issuing, servicing, and retiring the rate reduction bonds contemplated by the financing order. These adjustments shall not impose fixed transition amounts upon classes of customers who were not subject to the fixed transition amounts in the pertinent financing order.

(d) “Fixed transition amounts” means those nonbypassable rates and other charges, including, but not limited to, distribution, connection, disconnection, and termination rates and charges, that are authorized by the commission in a financing order to recover (1) transition costs, and (2) the costs of providing, recovering, financing, or refinancing the transition costs through a plan approved by the commission in the financing order, including the costs of issuing, servicing, and retiring rate reduction bonds. If requested by the electrical corporation in its application for a financing order, fixed transition amounts shall include nonbypassable rates and other charges to recover federal and state taxes whose recovery period is modified by the transactions approved in the financing order.



(e) “Rate reduction bonds” means bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture or other agreement of a financing entity, the proceeds of which are used, directly or indirectly, to provide, recover, finance, or refinance transition costs, and that are directly or indirectly secured by, or payable from, transition property.

(f) “Transition costs” means the costs, and categories of costs, of an electrical corporation for generation-related assets and obligations, consisting of generation facilities, generation-related regulatory assets, nuclear settlements, and power purchase contracts, including, but not limited to, voluntary restructuring, renegotiations, or terminations thereof approved by the commission, that were being collected in commission-approved rates on December 20, 1995, and that may become uneconomic as a result of a competitive generation market in that those costs may not be recoverable in market prices in a competitive market, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that these costs are necessary to maintain the facilities through December 31, 2001. Transition costs shall also include the costs of refinancing or retiring of debt or equity capital of the electrical corporation, and associated federal and state tax liabilities.

(g) (1) “Transition property” means the property right created pursuant to this article including, without limitation, the right, title, and interest of an electrical corporation or its transferee:

(A) In and to the tariff established pursuant to a financing order, as adjusted from time to time in accordance with subdivision (c) of Section 841 and the financing order.

(B) To be paid the amount that is determined in a financing order to be the amount that the electrical corporation or its transferee is lawfully entitled to receive pursuant to the provision of this article and the proceeds thereof, and in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the tariff or constituting fixed transition amounts that are the subject of a financing order including those nonbypassable rates and other charges referred to in subdivision (d).

(C) In and to all rights to obtain adjustments to the tariff pursuant to the terms of subdivision (c) of Section 841 and the financing order.

(2) “Transition property” shall constitute a current property right notwithstanding the fact that the value of the property right will depend on consumers using electricity or, in those instances where consumers are customers of a particular electrical corporation, the electrical corporation performing certain services.



(3) For purposes of Sections 63010 and 63025.1 of the Government Code, “transition property” also shall mean certificates representing primarily interests in the property rights described in paragraphs (1) and (2).

SEC. 28. Section 841 of the Public Utilities Code is amended to read:

841. (a) An electrical corporation shall, by June 1, 1997, and may from time to time thereafter apply to the commission for a determination that certain transition costs may be recovered through fixed transition amounts, which would therefore constitute transition property under this article. An electrical corporation may request this determination by the commission in separate proceedings or in an order instituting investigation or order instituting rulemaking, or both. The electrical corporation shall in its application specify that the residential and small commercial customers as defined in subdivision (h) of Section 331 would benefit from reduced rates through the issuance of rate reduction bonds. The commission shall designate fixed transition amounts as recoverable in one or more financing orders if the commission determines, as part of its findings in connection with the financing order, that the designation of the fixed transition amounts, and issuance of rate reduction bonds in connection with some or all of the fixed transition amounts would reduce rates that residential and small commercial customers would have paid if the financing order were not adopted. These customers shall continue to pay fixed transition amounts after December 31, 2001, until the bonds are paid in full by the financing entity. No electrical corporation shall be found to have acted imprudently or unreasonably for failing to amend a power purchase contract where the amendment would modify or waive an existing requirement that the seller be a qualifying facility pursuant to federal law.

(b) The commission may issue financing orders in accordance with this article to facilitate the provision, recovery, financing, or refinancing of transition costs. A financing order may be adopted only upon the application of an electrical corporation and shall become effective in accordance with its terms only after the electrical corporation files with the commission the electrical corporation’s written consent to all terms and conditions of the financing order. A financing order may specify how amounts collected from a customer shall be allocated between fixed transition amounts and other charges.

(c) Notwithstanding Section 455.5, Section 1708, or any other provision of law, except as otherwise provided in this subdivision with respect to transition property that has been made the basis for the issuance of rate reduction bonds, the financing orders and the fixed transition amounts shall be irrevocable and the commission shall not have authority either by rescinding, altering, or amending the



financing order or otherwise, to revalue or revise for ratemaking purposes the transition costs, or the costs of providing, recovering, financing, or refinancing the transition costs, determine that the fixed transition amounts or rates are unjust or unreasonable, or in any way reduce or impair the value of transition property either directly or indirectly by taking fixed transition amounts into account when setting other rates for the electrical corporation; nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination. Except as otherwise provided in this subdivision, the State of California does hereby pledge and agree with the owners of transition property and holders of rate reduction bonds that the state shall neither limit nor alter the fixed transition amounts, transition property, financing orders, and all rights thereunder until the obligations, together with the interest thereon, are fully met and discharged, provided nothing contained in this section shall preclude the limitation or alteration if and when adequate provision shall be made by law for the protection of the owners and holders. The bank as agent for the state is authorized to include this pledge and undertaking for the state in these obligations. Notwithstanding any other provision of this section, the commission shall approve the adjustments to the fixed transition amounts as may be necessary to ensure timely recovery of all transition costs that are the subject of the pertinent financing order, and the costs of capital associated with the provision, recovery, financing, or refinancing thereof, including the costs of issuing, servicing, and retiring the rate reduction bonds contemplated by the financing order. The adjustments shall not impose fixed transition amounts upon classes of customers who were not subject to the fixed transition amounts in the pertinent financing order.

(d) (1) Financing orders issued under this article do not constitute a debt or liability of the state or of any political subdivision thereof, other than the financing entity, and do not constitute a pledge of the full faith and credit of the state or any of its political subdivisions, other than the financing entity, but are payable solely from the funds provided therefor under this article and shall be consistent with Sections 1 and 18 of Article XVI of the California Constitution. This subdivision shall in no way preclude bond guarantees or enhancements pursuant to this article. All the bonds shall contain on the face thereof a statement to the following effect:

“Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond.”

(2) The issuance of bonds under this article shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment. Nothing in this section shall prevent, or be construed to prevent, the financing entity



from pledging the full faith and credit of the infrastructure bank fund to the payment of bonds or issuance of bonds authorized pursuant to this article.

(e) The commission shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the electrical corporation's making application therefor. The commission shall provide in any financing order for a procedure for the expeditious approval by the commission of periodic adjustments to the fixed transition amounts that are the subject of the pertinent financing order, as required by subdivision (c). The procedure shall require the commission to determine whether the adjustments are required on each anniversary of the issuance of the financing order, and at the additional intervals as may be provided for in the financing order, and for the adjustments, if required, to be approved within 90 days of each anniversary of the issuance of the financing order, or of each additional interval provided for in the financing order.

(f) Fixed transition amounts shall constitute transition property when, and to the extent that, a financing order authorizing the fixed transition amounts has become effective in accordance with this article, and the transition property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this article for the period and to the extent provided in the financing order, but in any event until the rate reduction bonds are paid in full, including all principal, interest, premium, costs, and arrearages thereon.

(g) Any surplus fixed transition amounts in excess of the amounts necessary to pay principal, premium, if any, interest and expenses of the issuance of the rate reduction bonds shall be remitted to the financing entity and may be used to benefit residential and small commercial customers if this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, the following:

(1) Avoiding the recognition of debt on the electrical corporation's balance sheet for financial accounting and regulatory purposes.

(2) Treating the rate reduction bonds as debt of the electrical corporation or its affiliates for federal income tax purposes.

(3) Treating the transfer of the transition property by the electrical corporation as a true sale for bankruptcy purposes.

(4) Avoiding any adverse impact of the financing on the electrical corporation's credit rating.

SEC. 29. Section 842 of the Public Utilities Code is amended to read:

842. (a) Financing entities may issue rate reduction bonds upon approval by the commission in the pertinent financing orders. Rate reduction bonds shall be nonrecourse to the credit or any assets of the



electrical corporation, other than the transition property as specified in the pertinent financing order.

(b) Electrical corporations may sell and assign all or portions of their interest in transition property to an affiliate. Electrical corporations or their affiliates may sell or assign their interests to one or more financing entities that make that property the basis for issuance of rate reduction bonds to the extent approved in the pertinent financing orders. Electrical corporations, their affiliates, or financing entities may pledge transition property as collateral, directly or indirectly, for rate reduction bonds to the extent approved in the pertinent financing orders providing for a security interest in the transition property, in the manner as set forth in Section 843. In addition transition property may be sold or assigned by (1) the financing entity or a trustee for the holders of rate reduction bonds in connection with the exercise of remedies upon a default, or (2) any person acquiring the transition property after a sale or assignment pursuant to this subdivision.

(c) To the extent that any interest in transition property is so sold or assigned, or is so pledged as collateral, the commission shall authorize the electrical corporation to contract with the financing entity that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the fixed transition amounts for the benefit and account of the financing entity, and will account for and remit these amounts to or for the account of the financing entity. Contracting with the financing entity in accordance with that authorization shall not impair or negate the characterization of the sale, assignment, or pledge as an absolute transfer, a true sale, or security interest, as applicable.

(d) Notwithstanding Section 1708 or any other provision of law, any requirement under this article or a financing order that the commission take action with respect to the subject matter of a financing order shall be binding upon the commission, as it may be constituted from time to time, and any successor agency exercising functions similar to the commission and the commission shall have no authority to rescind, alter, or amend that requirement in a financing order. The approval by the commission in a financing order of the issuance by an electrical corporation or a financing entity of rate reduction bonds shall include the approvals, if any, as may be required by Article 5 (commencing with Section 816) and Section 701.5. Nothing in Section 701.5 shall be construed to prohibit the issuance of rate reduction bonds upon the terms and conditions as may be approved by the commission in a financing order. Section 851 shall not be applicable to the transfer or pledge of transition property, the issuance of rate reduction bonds, or related transactions approved in a financing order.

SEC. 30. Section 843 of the Public Utilities Code is amended to read:



843. (a) A security interest in transition property is valid, is enforceable against the pledgor and third parties, subject to the rights of any third parties holding security interests in the transition property perfected in the manner described in this section, and attaches when all of the following have taken place:

(1) The commission has issued the financing order authorizing the fixed transition amounts included in the transition property.

(2) Value has been given by the pledgees of the transition property.

(3) The pledgor has signed a security agreement covering the transition property.

(b) A valid and enforceable security interest in transition property is perfected when it has attached and when a financing statement has been filed in accordance with Chapter 4 (commencing with Section 9401) of Division 9 of the Commercial Code naming the pledgor of the transition property as “debtor” and identifying the transition property. Any description of the transition property shall be sufficient if it refers to the financing order creating the transition property. A copy of the financing statement shall be filed with the commission by the electrical corporation that is the pledgor or transferor of the transition property, and the commission may require the electrical corporation to make other filings with respect to the security interest in accordance with procedures it may establish, provided that the filings shall not affect the perfection of the security interest.

(c) A perfected security interest in transition property is a continuously perfected security interest in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting security interests shall rank according to priority in time of perfection. Transition property shall constitute property for all purposes, including for contracts securing rate reduction bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

(d) Subject to the terms of the security agreement covering the transition property and the rights of any third parties holding security interests in the transition property perfected in the manner described in this section, the validity and relative priority of a security interest created under this section is not defeated or adversely affected by the commingling of revenues arising with respect to the transition property with other funds of the electrical corporation that is the pledgor or transferor of the transition property, or by any security interest in a deposit account of that electrical corporation perfected under Division 9 (commencing with Section 9101) of the Commercial Code into which the revenues are deposited. Subject to the terms of the security agreement, upon compliance with the requirements of subdivision (g) of Section 9302 of the Commercial Code, the pledgees of the transition property shall have a perfected



security interest in all cash and deposit accounts of the electrical corporation in which revenues arising with respect to the transition property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the transition property received by the electrical corporation within 12 months before (1) any default under the security agreement or (2) the institution of insolvency proceedings by or against the electrical corporation, less payments from the revenues to the pledgees during that 12-month period.

(e) If an event of default occurs under the security agreement covering the transition property, the pledgees of the transition property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default under Division 9 (commencing with Section 9101) of the Commercial Code, and shall be entitled to foreclose or otherwise enforce their security interest in the transition property, subject to the rights of any third parties holding prior security interests in the transition property perfected in the manner provided in this section. In addition, the commission may require, in the financing order creating the transition property, that, in the event of default by the electrical corporation in payment of revenues arising with respect to the transition property, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under Section 844, of the transition property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and payment to the pledgees or transferees of revenues arising with respect to the transition property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the transition property. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, costs, and arrearages on the rate reduction bonds, and other costs arising under the security agreement, shall be remitted to the debtor or to the pledgor or transferor.

(f) Section 5451 of the Government Code shall not apply to any pledge of transition property by a financing entity. Sections 9204 and 9205 of the Commercial Code shall apply to a pledge of transition property by an electrical corporation, an affiliate of an electrical corporation, or a financing entity.

(g) This section sets forth the terms by which a consensual security interest can be created and perfected in the transition property. Unless otherwise ordered by the commission with respect to any series of rate reduction bonds on or prior to the issuance of the series, there shall exist a statutory lien as provided in this subdivision. Upon the effective date of the financing order, there shall exist a first



priority lien on all transition property then existing or thereafter arising pursuant to the terms of the financing order. This lien shall arise by operation of this section automatically without any action on the part of the electrical corporation, any affiliate thereof, the financing entity, or any other person. This lien shall secure all obligations, then existing or subsequently arising, to the holders of the rate reduction bonds issued pursuant to the financing order, the trustee or representative for the holders, and any other entity specified in the financing order. The persons for whose benefit this lien is established shall, upon the occurrence of any defaults specified in the financing order, have all rights and remedies of a secured party upon default under Division 9 (commencing with Section 9101) of the Commercial Code, and shall be entitled to foreclose or otherwise enforce this statutory lien in the transition property. This lien shall attach to the transition property regardless of who shall own, or shall subsequently be determined to own, the transition property including any electrical corporation, any affiliate thereof, the financing entity, or any other person. This lien shall be valid, perfected, and enforceable against the owner of the transition property and all third parties upon the effectiveness of the financing order without any further public notice; provided, however, that any person may, but shall not be required to, file a financing statement in accordance with subdivision (b). Financing statements so filed may be “protective filings” and shall not be evidence of the ownership of the transition property.

A perfected statutory lien in transition property is a continuously perfected lien in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting liens shall rank according to priority in time of perfection. Transition property shall constitute property for all purposes, including for contracts securing rate reduction bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

In addition, the commission may require, in the financing order creating the transition property, that, in the event of default by the electrical corporation in payment of revenues arising with respect to transition property, the commission and any successor thereto, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the transition property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the transition property. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, costs, and arrearages on the rate reduction bonds, and other costs arising in connection with the



documents governing the rate reduction bonds, shall be remitted to the debtor or to the pledgor or transferor.

SEC. 31. The education trust created by Decision No. 97-03-069 shall continue until December 31, 2001.

The Public Utilities Commission shall determine the funding level necessary to carry out the functions of the trust. Any amounts not covered by the funding allocation made in Decision No. 97-03-069 shall be paid for by utility electrical corporations in proportion to their share of revenues for regulated distribution services, and recovered through rates pursuant to Section 376.

SEC. 32. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 33. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the safety and reliability of electrical services to Californians at the lowest possible rates and at the earliest possible time, it is necessary for this act to take effect immediately.

