

## Assembly Bill No. 265

### CHAPTER 328

An act to add Section 332.1 to the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 265, Davis. Electrical restructuring: electric bills: bill stabilization.

(1) Existing law restructuring the electrical industry establishes a process for the recovery by specified electrical corporations of certain uneconomic costs during a transition period that began on January 1, 1998, and ends for an electrical corporation on the earlier of March 31, 2002, or the date that the electrical corporation fully recovers its uneconomic costs. Existing law imposes during the transition period a rate freeze and a rate reduction, as prescribed, to remain in effect until March 31, 2002, unless the electrical corporation fully recovers its uneconomic costs at an earlier date. The San Diego Gas and Electric Company has recovered all uneconomic costs subject to existing law, and, pursuant to a decision of the Public Utilities Commission, is no longer subject to the rate freeze and rate reduction. An existing order of the commission adopts a bill stabilization plan for certain customers of the company.

This bill would require the commission to establish a ceiling of 6.5¢ per kilowatt hour on the energy component of electric bills for residential, small commercial, and lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000, as prescribed. The bill would require the commission to establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of that ceiling. The bill would require the commission to establish a voluntary program for large commercial, agricultural, and industrial customers who buy energy from the San Diego Gas and Electric Company to set the energy component of their bills at 6.5¢ per kilowatt hour with a true-up after a year. The bill would require the commission to institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric Company in the procurement of wholesale energy on behalf of its customers, and to issue orders it determines to be appropriate affecting the retail rates of San Diego Gas and Electric Company customers if it makes

a specified finding. Since a violation of a decision or order of the commission is a crime, this bill would impose a state-mandated local program by creating new crimes.

The bill would declare that, due to the special circumstances surrounding the San Diego Gas and Electric Company, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

(2) 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.

(3) The bill would become operative only if AB 970 of the 1999–2000 Regular Session is enacted and becomes operative on or before January 1, 2001.

(4) The bill would declare that it is to take immediate effect as an urgency statute.

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

SECTION 1. (a) The Legislature finds and declares that the San Diego Gas and Electric Company is the only electrical corporation in this state whose customers are no longer protected by a statutorily imposed rate freeze, and that those customers alone are therefore subject to severe economic hardship because of unprecedented bill volatility and extraordinarily high rate levels.

(b) It is the intent of the Legislature to protect against a simple deferral of payment by future customers by establishing incentives for prudent procurement by the San Diego Gas and Electric Company, encouraging appropriate action by federal and state oversight agencies, and offsetting any undercollection in the balancing accounts with revenues associated with sales of energy from utility owned or managed generation assets.

SEC. 2. Section 332.1 is added to the Public Utilities Code, to read:

332.1. (a) (1) It is the intent of the Legislature to enact Item 1 (revised) on the commission's August 21, 2000 agenda, entitled "Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas and Electric Company," as modified below.

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

(b) The commission shall establish a ceiling of six and five-tenth cents (\$.065) per kilowatt hour on the energy component of electric



bills for residential, small commercial, and street lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

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

(d) If the commission determines that it is in the public interest to do so, the commission, after the date of the completion of the proceeding described in subdivision (g), may adjust the ceiling from the level specified in subdivision (b), consistent with the Legislature's intent to provide substantial protections for customers of the San Diego Gas and Electric Company and their interest in just and reasonable rates and adequate service.

(e) For purposes of this section, "small commercial customer" includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule A of the San Diego Gas and Electric Company, all accounts of customers who are "general acute care hospitals," as defined in Section 1250 of the Health and Safety Code, all San Diego Gas and Electric Company accounts of customers who are public or private schools for pupils in kindergarten or any of grades 1 to 12, inclusive, and all accounts on Rate Schedule AL-TOU under 100 kilowatts.

(f) The commission shall establish a program for large commercial, agricultural, and industrial customers who buy energy from the San Diego Gas and Electric Company, on a voluntary basis, at the election of the customer, to set the energy component of their bills at six and five-tenths cents (\$.065) per kilowatt hour with a true-up after a year.

(g) The commission shall institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric Company in the procurement of wholesale energy on behalf of its customers, for a period beginning at the latest on June 1, 2000. If the commission finds that San Diego Gas and Electric Company acted imprudently or unreasonably, the commission shall issue orders that it determines to be appropriate affecting the retail rates of San Diego



Gas and Electric Company customers including, but not limited to, refunds.

SEC. 3. 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.

SEC. 4. The Legislature finds and declares that, due to the special circumstances surrounding the San Diego Gas and Electric Company, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

SEC. 5. Sections 1 to 4, inclusive, of this act shall become operative only if AB 970 of the 1999–2000 Regular Session is enacted and becomes operative on or before January 1, 2001.

SEC. 6. 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 timely relief to ratepayers in the service territory of the San Diego Gas and Electric Company suffering from a rapid increase in retail energy rates due to spiraling wholesale energy costs, thereby endangering the public peace, health, and safety, it is necessary that this act take immediate effect.

