

Introduced by Senator Strickland

February 17, 2010

An act to amend Sections 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, and 2799 of the Public Utilities Code, relating to utility services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1097, as introduced, Strickland. Gas and electric utility service: master-meter customers.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law authorizes the owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents to transfer ownership and operational responsibility for its gas or electric system to the gas or electric corporation providing service in the area in which the park or community is located, pursuant to specified transfer and cost allocation procedures.

This bill would correct existing references in the above-described master-meter system transfer statutes by revising an "electric corporation" to an "electrical corporation." The bill would require a gas or electrical corporation that receives an offer to transfer a gas or electric system from a master-metered mobilehome park or manufactured housing community that is within its service territory to accept transfer if certain criteria are met and require the corporation to assign a representative who will have responsibility for oversight of the proposed transfer, until the transfer is complete or the transfer process is terminated. The bill would require a gas or electrical corporation to provide the commission with copies of certain notices, reports, and estimates generated during the transfer process and would require the

commission, upon receipt of these materials, to monitor and facilitate the transfer until the transfer is completed or the transfer process is terminated. The bill would authorize the owner of a master-metered mobilehome park or manufactured housing community to bring a complaint before the commission for violation of the transfer laws and require the commission to establish an expedited procedure for the review of the complaint and to ensure that a final determination of the issues raised by the complaint be reached not later than one year after filing of the complaint.

(2) Existing law requires the commission to permit a gas or electrical corporation to recover in its revenue requirement and rates all costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems.

Existing law requires that, when gas or electric service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer charge each user at the same rate that would be applicable if the user were receiving gas or electricity directly from the gas or electrical corporation. Existing law additionally requires the gas or electrical corporation to establish uniform rates to master-meter customers at a level that will provide a sufficient differential to cover the reasonable average costs to master-meter customers of providing submeter service, except that these costs shall not exceed the average cost that the corporation would have incurred in providing comparable services directly to the users of the service. Existing decisions of the commission refer to this rate differential as the “submeter discount.”

This bill would require that in any application to recover costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems, that the gas or electrical corporation include a calculation of the utility’s net costs, including additional income recovered by the utility resulting from the elimination of the submeter discount. The bill would require that when an appraised value is established for a submetered gas or electric system that is to be transferred by a mobilehome park or manufactured housing community to a gas or electrical corporation, that the appraised value include the value of eliminating the submeter discount.

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

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

SECTION 1. Section 2791 of the Public Utilities Code is amended to read:

2791. (a) The owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents may transfer ownership and operational responsibility to the gas or ~~electric~~ *electrical* corporation providing service in the area in which the park or community is located pursuant to this chapter, or as the park or community owner and the serving gas or ~~electric~~ *electrical* corporation mutually agree.

(b) *A gas or electrical corporation that receives an offer to transfer a gas or electric system from a master-metered mobilehome park or manufactured housing community that is within its service territory shall accept transfer of the system pursuant to Section 2794.*

~~(b)~~

(c) Costs, including both costs related to transfer procedures and costs related to construction, related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or ~~electric~~ *electrical* corporation, shall not be passed through to the park or community residents. Costs related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or ~~electric~~ *electrical* corporation, shall not be passed through to the gas or ~~electric~~ *electrical* corporation, except as otherwise provided in this chapter.

~~(c)~~

(d) Residents of mobilehome parks and manufactured housing communities constructed after January 1, 1997, shall be individually metered and served by gas and electric distribution facilities owned, operated, and maintained by the gas or ~~electric~~ *electrical* corporation providing the service in the area where the new park or community is located consistent with the commission's orders regarding unbundling, aggregation, master-metering, and selection of suppliers by residential customers. Each gas and ~~electric~~ *electrical* corporation shall cooperate with the owner of any park or community constructed after January 1, 1997, to ensure timely and expeditious installation of the gas and electric distribution system and to eliminate any delay in the design,

1 construction, permitting, and operation of the gas and electric
2 system in the park or community.

3 SEC. 2. Section 2792 of the Public Utilities Code is amended
4 to read:

5 2792. (a) Upon receipt of a written notice of intent to transfer
6 from the mobilehome park or manufactured housing community
7 owner, the gas or ~~electric~~ *electrical* corporation shall *assign a*
8 *representative of the gas or electrical corporation who will have*
9 *responsibility for oversight of the proposed transfer pursuant to*
10 *the chapter, until the transfer is complete or the transfer process*
11 *is terminated. The gas or electrical corporation shall notify the*
12 *commission and the owner of the park or community of the identity*
13 *of the assigned representative, and within 90 days, do all of the*
14 *following:*

15 (1) Meet with the park or community owner to describe the
16 procedures involved in a transfer of ownership and operation
17 responsibility.

18 (2) Perform a preliminary review of the gas or electric system,
19 or both, in the park or community.

20 (3) Inspect documentation provided by the park or community
21 owner of the construction, operation, and condition of the gas or
22 electric system, or both.

23 (4) Advise the park or community owner concerning the general
24 condition of the plant and equipment, along with a preliminary
25 opinion concerning the extent of construction work or other activity
26 necessary to comply with Section 2794.

27 (5) Offer a preliminary nonbinding estimate of the cost of
28 transfer.

29 (6) Offer the park or community owner a preliminary nonbinding
30 cost estimate to perform an engineering evaluation and estimate
31 the construction work and equipment replacement to be performed
32 by the gas or ~~electric~~ *electrical* corporation at the owner's expense.

33 (b) The gas or ~~electric~~ *electrical* corporation shall develop the
34 cost estimate for the engineering evaluation in good faith using
35 the same methodology as is used for similar projects. The
36 preliminary cost estimate shall be effective for a minimum of 90
37 days. The gas or ~~electric~~ *electrical* corporation shall give the owner
38 timely notice of any increase in the estimated cost of the
39 engineering evaluation.

1 ~~(c) During 1997, gas and electric corporations shall make a good~~
2 ~~faith effort to respond within 90 days to the notice provided in~~
3 ~~subdivision (a).~~

4 ~~(d)~~

5 (c) The gas or ~~electric~~ *electrical* corporation may charge a fee
6 for the initial inspection not to exceed one hundred fifty dollars
7 (\$150).

8 (d) *The gas or electrical corporation shall provide the*
9 *commission with a copy of all of the following:*

10 (1) *The written notice of intent to transfer from the owner of*
11 *the park or community.*

12 (2) *Any report of the results of the preliminary review of the*
13 *gas or electric system, or both, in the park or community*
14 *undertaken pursuant to paragraph (2) of subdivision (a).*

15 (3) *Any report of the inspection undertaken pursuant to*
16 *paragraph (3) of subdivision (a).*

17 (4) *The preliminary nonbinding estimate of the cost of transfer*
18 *offered to the park or community owner pursuant to paragraph*
19 *(5) of subdivision (a).*

20 (5) *The preliminary nonbinding cost estimate for performing*
21 *an engineering evaluation and estimate of the construction work*
22 *and equipment replacement offered to the park or community*
23 *owner pursuant to paragraph (6) of subdivision (a).*

24 (e) *Upon receipt of the materials supplied by the gas or*
25 *electrical corporation pursuant to subdivision (d), the commission*
26 *shall monitor and facilitate the transfer, until the transfer is*
27 *complete or the transfer process is terminated.*

28 SEC. 3. Section 2793 of the Public Utilities Code is amended
29 to read:

30 2793. (a) Upon receipt from the park or community owner of
31 a deposit representing the gas or ~~electric~~ *electrical* corporation's
32 estimated cost of the engineering evaluation, the gas or ~~electric~~
33 *electrical* corporation shall, within 90 days, do all of the following:

34 (1) Develop an engineering plan for bringing the gas or electric
35 system to the standard described in Section 2794, incorporating
36 all relevant documentation including plans, drawings, engineering
37 studies, and other existing documentation provided by the park or
38 community owner, and considering incorporation of all portions
39 of the gas or electric system found to be used, useful, and
40 compatible.

(2) Develop an appraisal of the value to the gas or ~~electric~~ *electrical* corporation of the physical plant and equipment found to be used, useful, and compatible that comprise the gas or electric system, or both, to be transferred, including an estimate of the remaining useful life of the gas or electric system. The value to the gas or ~~electric~~ *electrical* corporation shall take into consideration the expenditures by the park or community owner to comply with the criteria established in Section 2794.

(3) Present a proposal, in sufficient detail to serve as a bid document for the transfer of ownership of the system to the gas or ~~electric~~ *electrical* corporation.

(b) The proposal may be based on either of the following approaches or as the park or community owner and the gas or ~~electric~~ *electrical* corporation mutually agree:

(1) The park or community owner is responsible for all construction and equipment replacement activity, if any, at the park or community owner's expense less any credits or allowances, if any, including credits or allowances based on incremental increases in the gas or ~~electric~~ *electrical* corporation's revenues associated with the park or community owner's investment in the gas or electric system. The construction and equipment replacement and the credits and allowances shall be based on the principles established in the gas or ~~electric~~ *electrical* corporation's line and service extension rules, if applicable.

(2) The gas or ~~electric~~ *electrical* corporation shall pay the park or community owner for the appraised value to the gas or ~~electric~~ *electrical* corporation of any gas or electric distribution facilities found to be used, useful, and compatible. If any new facilities are necessary, the park or community owner shall be responsible for the costs of the excavation, installation of substructures, conduit and meter panels, and surface repairs. Except as provided in paragraph (4) of subdivision (c), the gas or ~~electric~~ *electrical* corporation shall be responsible for the costs of any additional construction and equipment replacement, including cabling and transformers.

(c) The proposal shall include the following:

(1) A description of construction and equipment replacement activity, if any, to be accomplished at the park or community owner's expense.

1 (2) Requirements for any additional provisions or rights for the
2 construction or maintenance of public utility facilities on park or
3 community premises, including easements and rights-of-way
4 acceptable to the gas or ~~electric~~ *electrical* corporation.

5 (3) Any specific requirements or costs, or both, with respect to
6 the presence of used and useful materials or equipment that are
7 nonstandard, including, but not limited to, inventory requirements,
8 specialized equipment requirements, or specialized personnel or
9 training.

10 (4) Any specific requirements or costs, or both, with respect to
11 the presence of exceptional construction conditions or operation
12 and maintenance conditions.

13 (d) If the actual cost of the engineering evaluation is greater
14 than the gas or ~~electric~~ *electrical* corporation estimate, the park or
15 community owner shall pay the gas or ~~electric~~ *electrical*
16 corporation the difference within 30 days of receipt of notice. If
17 the actual cost of the engineering evaluation is less than the deposit,
18 the gas or ~~electric~~ *electrical* corporation shall pay the park or
19 community owner the difference within 30 days. The content of
20 the proposal shall become the property of the park or community
21 owner.

22 (e) Within 90 days of receipt of the proposal for transfer of
23 ownership, a park or community owner may do any of the
24 following:

25 (1) Present objections to the gas or ~~electric~~ *electrical* corporation
26 in writing for resolution and may require mediation of the
27 commission if the parties are unable to resolve the objection. *In*
28 *any mediation, the commission, at the expense of the gas or*
29 *electrical corporation, shall obtain the services of an independent*
30 *qualified professional to evaluate the system inspection and*
31 *valuation and to advise the commission.*

32 (2) Decline to proceed, without prejudice to the right to present
33 a new notice at any future date.

34 (3) Accept the proposal and contract with the gas or ~~electric~~
35 *electrical* corporation for completion of the construction work and
36 equipment replacement, if any, or the acquisition of the gas or
37 electric system, or both.

38 (4) Accept the proposal and contract with an approved third
39 party for completion of the construction work and equipment

1 replacement, if any, in accordance with the applicable gas or
2 ~~electric~~ *electrical* corporation applicant installation rules.

3 (f) Any new facilities provided by the gas or ~~electric~~ *electrical*
4 corporation to extend distribution or service facilities from the
5 existing gas or ~~electric~~ *electrical* corporation system within the
6 park to previously undeveloped locations shall be provided in
7 accordance with line extension rules and service extension rules
8 contained in gas or ~~electric~~ *electrical* corporation tariffs filed with
9 the commission, including any and all free extensions, allowances,
10 and advances subject to refund.

11 (g) Upon completion of construction work and equipment
12 replacement, if any, receipt of appropriate inspection approval
13 from the gas or ~~electric~~ *electrical* corporation and authorities
14 having jurisdiction for the inspections, and completion of all
15 financial transactions among the parties, the park or community
16 owner shall transfer and the gas or ~~electric~~ *electrical* corporation
17 shall acquire ownership and operational responsibility for the gas
18 or electric system.

19 (h) Upon receipt of the proposal described in paragraph (3) of
20 subdivision (a), the park or community owner shall notify the park
21 residents concerning the pendency of a transfer process request
22 and the provisions of the transfer process law.

23 SEC. 4. Section 2794 of the Public Utilities Code is amended
24 to read:

25 2794. (a) *If a gas or electric system is acceptable for transfer*
26 *pursuant to the criteria in this section, the gas or electrical*
27 *corporation shall approve the transfer, accept ownership and*
28 *operational responsibility, and purchase, the gas or electric system.*
29 A gas or electric system shall be ~~considered~~ acceptable for transfer
30 if it is in compliance with the following criteria:

31 (1) *It was constructed to meet the building and safety regulatory*
32 *standards in effect at the time of construction.*

33 ~~(1)~~
34 (2) It is capable of providing the end users a safe and reliable
35 source of gas or electric service.

36 ~~(2)~~
37 (3) It meets the commission's general orders, is compatible,
38 and, in the case of new construction *only*, meets the gas or ~~electric~~
39 *electrical* corporation's design and construction standards insofar
40 as they are related to safety and reliability. The parties may waive

these requirements by mutual agreement and, where necessary, with commission approval. The deviations as are agreed upon may be reflected in the purchase price.

(4) *For a gas system, it meets any applicable federal safety standards adopted by the Pipeline and Hazardous Materials Safety Administration of the Department of Transportation, or a successor federal entity, including any applicable minimum federal safety standards in Part 192 of Title 49 of the Code of Federal Regulations.*

(3)

(5) It is capable of serving the customary expected load in the park or community determined in accordance with a site-specific study, studies of comparable parks or communities, industry standards, and the gas or ~~electric~~ *electrical* corporation's rules as approved by the commission.

(b) As used in this section, "customary expected load" means the anticipated level of service demanded by the *existing* dwelling units in the park or community. The park or community owner shall not be responsible for betterments or improvements to the gas or ~~electric~~ *electrical* corporation's distribution system facilities or operations that do not benefit the park or community, *in contrast to those that benefit the gas or electrical corporation or its other customers.*

(c) Satisfaction of the criteria shall not require any particular system architecture or replacement of used and useful equipment, plant, or facilities, except as needed to comply with subdivision (a). Equipment, facilities, or plant that are part of the existing gas or electric system shall be considered compatible unless their presence in the system would cause substantial increase in the frequency or duration of outages in the case of failure or emergency, or they have no remaining useful life. Pursuant to subdivision (c) of Section 2793, equipment, facilities, or plant that require special training for the gas or ~~electric~~ *electrical* corporation's employees, or require the gas or ~~electric~~ *electrical* corporation to maintain inventories of nonstandard equipment may be considered compatible, but their presence may be reflected in the appraised value or the cost imposed on the park or community owner. *The appraised value shall include the value of eliminating the submeter discount. For purposes of this subdivision and Section 2797, "submeter discount" means the differential between the*

1 *master-meter rate paid by the operator of the master-metered*
2 *mobilehome park or manufactured housing community to the gas*
3 *or electrical corporation, as fixed by the commission pursuant to*
4 *Section 739.5, and the applicable rate charged by the gas or*
5 *electrical corporation to its customers that are not master-meter*
6 *customers.*

7 SEC. 5. Section 2795 of the Public Utilities Code is amended
8 to read:

9 2795. The park or community owner and the gas or ~~electric~~
10 *electrical* corporation shall develop a cost for the transfer of the
11 gas or electric system that reflects the factors in Section 2793,
12 indemnity and liability issues, and any other factors as the parties
13 may mutually agree upon, and to which the gas or ~~electric~~ *electrical*
14 corporation's ratepayers are indifferent. The parties may agree on
15 a schedule for phasing in facilities to meet expected load increases
16 and betterments, and the costs associated with those activities.

17 SEC. 6. Section 2796 of the Public Utilities Code is amended
18 to read:

19 2796. (a) During the pendency of a transfer request, the owner
20 of the park or community shall be responsible for the continued
21 maintenance to preserve the integrity of the park or community
22 gas or electric system and safe and reliable operation of the park
23 or community system in accordance with applicable laws.

24 (b) During the pendency of a transfer request the owner of the
25 park or community shall be liable for injury and damage resulting
26 from operation of the submetered gas and electric system. After
27 transfer, the gas or ~~electric~~ *electrical* corporation shall assume
28 responsibility for operation of the gas or electric system and
29 provision of service to residents of the park or community and
30 shall assume liability for any future injury or damage resulting
31 from operation of the gas or electric system except with respect
32 to defects known to the park or community owner and not disclosed
33 to the gas or ~~electric~~ *electrical* corporation during the transfer of
34 ownership process.

35 SEC. 7. Section 2797 of the Public Utilities Code is amended
36 to read:

37 2797. The commission shall permit the gas or ~~electric~~ *electrical*
38 corporation to recover in its revenue requirement and rates all costs
39 to acquire, improve, upgrade, operate, and maintain transferred
40 mobilehome park or manufactured housing community gas or

1 electric systems. *In any application to recover costs pursuant to*
2 *this section, a gas or electrical corporation shall include a*
3 *calculation of the utility's net costs to acquire, improve, upgrade,*
4 *operate, and maintain transferred mobilehome park or*
5 *manufactured housing community gas or electric systems, including*
6 *additional income resulting from the elimination of the submeter*
7 *discount.*

8 SEC. 8. Section 2798 of the Public Utilities Code is amended
9 to read:

10 2798. (a) The commission shall adopt a standard form of
11 agreement for transfer of gas and electric distribution facilities in
12 mobilehome parks and manufactured housing communities that
13 shall be the basis for expedited approval of the transfers. The
14 contract shall be based on this chapter, the regulations of the
15 commission, and on gas or ~~electric~~ electrical corporation rules and
16 regulations, as approved by the commission.

17 (b) *The owner of a master-metered mobilehome park or*
18 *manufactured housing community may bring a complaint before*
19 *the commission for violation of any requirement of this chapter*
20 *by a gas or electrical corporation. The commission shall establish*
21 *an expedited procedure, pursuant to Article 1 (commencing with*
22 *Section 1701) of Chapter 9 of Part 1, for the review of the*
23 *complaint. The commission shall ensure that the expedited*
24 *procedure results in a final determination of the issues raised by*
25 *the complaint not later than one year after filing of the complaint.*
26 *Nothing in this subdivision limits the authority of the commission*
27 *to open an appropriate proceeding in order to monitor and*
28 *facilitate the transfer pursuant to subdivision (e) of Section 2792.*

29 SEC. 9. Section 2799 of the Public Utilities Code is amended
30 to read:

31 2799. (a) The mobilehome park or manufactured housing
32 community owner may, by written notice, stop the transfer process
33 at any time. Within 60 days of delivery to the park or community
34 owner of an itemized bill, the owner shall reimburse the gas or
35 ~~electric~~ electrical corporation for all costs incurred through the
36 date notice is provided.

37 (b) At any time during the transfer of ownership process, either
38 party may apply to the commission for informal mediation and
39 resolution of any issue, finding, determination, or delay in the
40 conversion process.

1 (c) If the initiation of the transfer process does not result in a
2 transfer of the park or community owner's gas or electric system
3 to the gas or ~~electric~~ *electrical* corporation, all information, data,
4 reports, studies, and proposals shall be retained by the gas or
5 ~~electric~~ *electrical* corporation for a period of five years or offered
6 to the park or community owner. Prior to disposal of the records,
7 the gas or ~~electric~~ *electrical* corporation shall offer them to the
8 park or community owner, except that the gas or ~~electric~~ *electrical*
9 corporation shall not be required to provide proprietary information
10 to the park or community owner.