

AMENDED IN SENATE MAY 11, 2010

AMENDED IN SENATE APRIL 27, 2010

SENATE BILL

No. 1097

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 amended, Strickland. Gas and electric utility service: master-meter customers.

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. *Existing law authorizes the gas or electric corporation to charge a \$150 fee for initial inspection. Existing law requires the commission to adopt a standard transfer agreement to serve as the basis for expedited approval of transfers.*

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 increase the authorized fee amount for initial inspection to \$200.* 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 commission to modify the expedited approval process to allow for extensions of time to establish a queue of priority for expedited approvals in a calendar year with an extraordinarily high volume of transfers.* 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.

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

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

- 1 SECTION 1. Section 2791 of the Public Utilities Code is
- 2 amended to read:
- 3 2791. (a) The owner of a master-metered mobilehome park
- 4 or manufactured housing community that provides gas or electric
- 5 service to residents may transfer ownership and operational
- 6 responsibility to the gas or electrical corporation providing service
- 7 in the area in which the park or community is located pursuant to
- 8 this chapter, or as the park or community owner and the serving
- 9 gas or electrical corporation mutually agree.
- 10 (b) A gas or electrical corporation that receives an offer to
- 11 transfer a gas or electric system from a master-metered mobilehome
- 12 park or manufactured housing community that is within its service
- 13 territory shall accept transfer of the system pursuant to Section
- 14 2794.
- 15 (c) Costs, including both costs related to transfer procedures
- 16 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 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 electrical corporation, shall not be passed through to the gas or electrical corporation, except as otherwise provided in this chapter.

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

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

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

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

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

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

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

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

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

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

(c) The gas or electrical corporation may charge a fee for the initial inspection not to exceed ~~one hundred fifty dollars (\$150)~~ *two hundred dollars (\$200)*.

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

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

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

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

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

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

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

1 SEC. 3. Section 2793 of the Public Utilities Code is amended
2 to read:

3 2793. (a) Upon receipt from the park or community owner of
4 a deposit representing the gas or electrical corporation's estimated
5 cost of the engineering evaluation, the gas or electrical corporation
6 shall, within 90 days, do all of the following:

7 (1) Develop an engineering plan for bringing the gas or electric
8 system to the standard described in Section 2794, incorporating
9 all relevant documentation including plans, drawings, engineering
10 studies, and other existing documentation provided by the park or
11 community owner, and considering incorporation of all portions
12 of the gas or electric system found to be used, useful, and
13 compatible.

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

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

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

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

38 (2) The gas or electrical corporation shall pay the park or
39 community owner for the appraised value to the gas or electrical
40 corporation of any gas or electric distribution facilities found to

1 be used, useful, and compatible. If any new facilities are necessary,
2 the park or community owner shall be responsible for the costs of
3 the excavation, installation of substructures, conduit and meter
4 panels, and surface repairs. Except as provided in paragraph (4)
5 of subdivision (c), the gas or electrical corporation shall be
6 responsible for the costs of any additional construction and
7 equipment replacement, including cabling and transformers.

8 (c) The proposal shall include the following:

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

12 (2) Requirements for any additional provisions or rights for the
13 construction or maintenance of public utility facilities on park or
14 community premises, including easements and rights-of-way
15 acceptable to the gas or electrical corporation.

16 (3) Any specific requirements or costs, or both, with respect to
17 the presence of used and useful materials or equipment that are
18 nonstandard, including, but not limited to, inventory requirements,
19 specialized equipment requirements, or specialized personnel or
20 training.

21 (4) Any specific requirements or costs, or both, with respect to
22 the presence of exceptional construction conditions or operation
23 and maintenance conditions.

24 (d) If the actual cost of the engineering evaluation is greater
25 than the gas or electrical corporation estimate, the park or
26 community owner shall pay the gas or electrical corporation the
27 difference within 30 days of receipt of notice. If the actual cost of
28 the engineering evaluation is less than the deposit, the gas or
29 electrical corporation shall pay the park or community owner the
30 difference within 30 days. The content of the proposal shall become
31 the property of the park or community owner.

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

35 (1) Present objections to the gas or electrical corporation in
36 writing for resolution and may require mediation of the commission
37 if the parties are unable to resolve the objection. In any mediation,
38 the commission, at the expense of the gas or electrical corporation,
39 shall obtain the services of an independent qualified professional

1 to evaluate the system inspection and valuation and to advise the
2 commission.

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

5 (3) Accept the proposal and contract with the gas or electrical
6 corporation for completion of the construction work and equipment
7 replacement, if any, or the acquisition of the gas or electric system,
8 or both.

9 (4) Accept the proposal and contract with an approved third
10 party for completion of the construction work and equipment
11 replacement, if any, in accordance with the applicable gas or
12 electrical corporation applicant installation rules.

13 (f) Any new facilities provided by the gas or electrical
14 corporation to extend distribution or service facilities from the
15 existing gas or electrical corporation system within the park to
16 previously undeveloped locations shall be provided in accordance
17 with line extension rules and service extension rules contained in
18 gas or electrical corporation tariffs filed with the commission,
19 including any and all free extensions, allowances, and advances
20 subject to refund.

21 (g) Upon completion of construction work and equipment
22 replacement, if any, receipt of appropriate inspection approval
23 from the gas or electrical corporation and authorities having
24 jurisdiction for the inspections, and completion of all financial
25 transactions among the parties, the park or community owner shall
26 transfer and the gas or electrical corporation shall acquire
27 ownership and operational responsibility for the gas or electric
28 system.

29 (h) Upon receipt of the proposal described in paragraph (3) of
30 subdivision (a), the park or community owner shall notify the park
31 residents concerning the pendency of a transfer process request
32 and the provisions of the transfer process law.

33 SEC. 4. Section 2794 of the Public Utilities Code is amended
34 to read:

35 2794. (a) If a gas or electric system is acceptable for transfer
36 pursuant to the criteria in this section, the gas or electrical
37 corporation shall approve the transfer, accept ownership and
38 operational responsibility, and purchase the gas or electric system.
39 A gas or electric system shall be acceptable for transfer if it is in
40 compliance with the following criteria:

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

3 ~~(2)~~

4 (1) It is capable of providing the end users a safe and reliable
5 source of gas or electric service.

6 ~~(3)~~

7 (2) It meets the commission's general orders, is compatible,
8 and, in the case of new construction only, meets the gas or electrical
9 corporation's design and construction standards insofar as they
10 are related to safety and reliability. The parties may waive these
11 requirements by mutual agreement and, where necessary, with
12 commission approval. The deviations as are agreed upon may be
13 reflected in the purchase price.

14 ~~(4)~~

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

21 ~~(5)~~

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

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

35 (c) Satisfaction of the criteria shall not require any particular
36 system architecture or replacement of used and useful equipment,
37 plant, or facilities, except as needed to comply with subdivision
38 (a). Equipment, facilities, or plant that are part of the existing gas
39 or electric system shall be considered compatible unless their
40 presence in the system would cause substantial increase in the

1 frequency or duration of outages in the case of failure or
2 emergency, or they have no remaining useful life. Pursuant to
3 subdivision (c) of Section 2793, equipment, facilities, or plant that
4 require special training for the gas or electrical corporation's
5 employees, or require the gas or electrical corporation to maintain
6 inventories of nonstandard equipment may be considered
7 compatible, but their presence may be reflected in the appraised
8 value or the cost imposed on the park or community owner.

9 SEC. 5. Section 2795 of the Public Utilities Code is amended
10 to read:

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

19 SEC. 6. Section 2796 of the Public Utilities Code is amended
20 to read:

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

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

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

38 2797. The commission shall permit the gas or electrical
39 corporation to recover in its revenue requirement and rates all costs
40 to acquire, improve, upgrade, operate, and maintain transferred

1 mobilehome park or manufactured housing community gas or
2 electric systems.

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

5 2798. (a) The commission shall adopt a standard form of
6 agreement for transfer of gas and electric distribution facilities in
7 mobilehome parks and manufactured housing communities that
8 shall be the basis for expedited approval of the transfers. The
9 contract shall be based on this chapter, the regulations of the
10 commission, and on gas or electrical corporation rules and
11 regulations, as approved by the commission. *The commission may*
12 *modify the expedited approval process to allow for extensions of*
13 *time to establish a queue of priority for expedited approvals in a*
14 *calendar year with an extraordinarily high volume of transfers.*

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

27 SEC. 9. Section 2799 of the Public Utilities Code is amended
28 to read:

29 2799. (a) The mobilehome park or manufactured housing
30 community owner may, by written notice, stop the transfer process
31 at any time. Within 60 days of delivery to the park or community
32 owner of an itemized bill, the owner shall reimburse the gas or
33 electrical corporation for all costs incurred through the date notice
34 is provided.

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

39 (c) If the initiation of the transfer process does not result in a
40 transfer of the park or community owner's gas or electric system

1 to the gas or electrical corporation, all information, data, reports,
2 studies, and proposals shall be retained by the gas or electrical
3 corporation for a period of five years or offered to the park or
4 community owner. Prior to disposal of the records, the gas or
5 electrical corporation shall offer them to the park or community
6 owner, except that the gas or electrical corporation shall not be
7 required to provide proprietary information to the park or
8 community owner.

O