

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Migden

February 13, 2001

An act to amend Sections 331, 366, and 381 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as introduced, Migden. Electrical restructuring: aggregation.

(1) Existing law requires the establishment and operation of an Independent System Operator to ensure efficient use and reliable operation of the state's electricity transmission grid.

This bill would require the Independent System Operator to submit a report to the Legislature not later than January 1, 2002, regarding the operator's success in coordinating maintenance in advance to maintain system reliability, minimize the quantity and effect of congestion on the grid and connections controlled by the operator, and preserve price stability for electricity.

(2) Existing law, relating to transactions between electricity suppliers and end-use customers, authorizes specified entities to aggregate electrical loads, and defines an "aggregator" as one of those specified entities that provides specified power supply services, including combining the loads of multiple end-use customers and facilitating the sale and purchase of electrical energy, transmission, and other services on behalf of the end-use customers.

This bill would, instead, authorize customers to aggregate their electric loads as individual consumers with private aggregators, as

defined, or as members of their local community with community choice aggregators, as defined. The bill would, with regard to community choice aggregators, authorize any municipality or any group of municipalities acting together to aggregate the electrical load of interested electricity consumers within its boundaries, as prescribed.

(3) Existing law requires the Public Utilities Commission to order specified electrical corporations to collect and spend certain funds for prescribed public benefit programs, cost-effective energy efficiency, and conservation.

The bill would require the commission to authorize municipalities to file for a pro rata share of energy efficiency funds collected from their customers by electrical corporations. The bill would require the commission to authorize a municipality to spend the funds on energy efficiency measures that benefit its customers, subject to any rules adopted by the commission to ensure accurate accounting, verification, and adherence to a plan filed by the entity. The bill would require the California Energy Resources Conservation and Development Commission to administer the funds, as prescribed.

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

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Independent System Operator shall submit
2 a report to the Legislature not later than January 1, 2002, regarding
3 the operator’s success in coordinating maintenance in advance to
4 do all of the following:

- 5 (a) Maintain system reliability.
- 6 (b) Minimize the quantity and effect of congestion on the
7 transmission grid and connections controlled by the Independent
8 System Operator.
- 9 (c) Preserve price stability for electricity.

10 SEC. 2. Section 331 of the Public Utilities Code is amended
11 to read:

12 331. The definitions set forth in this section shall govern the
13 construction of this chapter.

14 (a) ~~“Aggregator” means any marketer, broker, public agency,~~
15 ~~city, county, or special district, that combines the loads of multiple~~



1 ~~end-use customers in facilitating the sale and purchase of electric~~
2 ~~energy, transmission, and other services on behalf of these~~
3 ~~customers.~~

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

8 (b) “Community choice aggregator” or “municipal
9 aggregator” means any of the following:

10 (1) Any municipality whose governing board elects to combine
11 the loads of its residents, businesses, and municipal facilities in a
12 communitywide electricity buyers’ program.

13 (2) Any group of municipalities whose governing boards have
14 elected to combine the loads of their programs.

15 (3) Any county or irrigation district whose governing board has
16 elected to administer the combined programs of consenting
17 municipalities within its jurisdiction.

18 (4) Any county or irrigation district whose governing board
19 elects to combine the loads of its residents, businesses, and
20 facilities in unincorporated areas.

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

25 (d) “Fire wall” means the line of demarcation separating
26 residential and small commercial customers from all other
27 customers as described in subdivision (e) of Section 367.

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

32 (f) “Microcogeneration facility” means a cogeneration facility
33 of less than one megawatt.

34 (g) “Private Aggregator” means any marketer, broker, or
35 public agency not qualifying as a community choice aggregator
36 that combines the loads of multiple end-use customers in
37 facilitating the sale and purchase of electric energy, transmission,
38 and other services on behalf of these customers.

39 (h) “Restructuring trusts” means the two tax-exempt public
40 benefit trusts established by Decision D. 96-08-038 of the Public



1 ~~Utilities Commission~~ *commission* to provide for design and
2 development of the hardware and software systems for the Power
3 Exchange and the Independent System Operator, respectively, and
4 that may undertake other activities, as needed, as ordered by the
5 commission.

6 ~~(h)~~

7 (i) “Small commercial customer” means a customer that has
8 a maximum peak demand of less than 20 kilowatts.

9 SEC. 3. Section 366 of the Public Utilities Code is amended
10 to read:

11 366. (a) (1) The commission shall take actions as needed to
12 facilitate direct transactions between electricity suppliers and ~~end~~
13 ~~use end-use~~ customers. Customers shall be entitled to aggregate
14 their electric loads *as individual consumers with private*
15 *aggregators, or as members of their local community with*
16 *community choice aggregators.*

17 (2) *Customers may aggregate their loads with private*
18 *aggregators on a voluntary basis, provided that if each customer*
19 *does so by a positive written declaration.*

20 (3) *Customers may aggregate their loads through a public*
21 *process with community choice aggregators, if each customer is*
22 *given an opportunity to opt out of their community’s aggregation*
23 *program.*

24 (4) ~~If no positive declaration is made by a customer makes no~~
25 ~~positive declaration to aggregate with a private aggregator, opts~~
26 ~~out of a community choice aggregator’s program, or has no~~
27 ~~community choice program available, that customer shall~~
28 ~~continue to be served by the existing electrical corporation or its~~
29 ~~successor in interest.~~

30 (b) ~~Aggregation~~ *Private aggregation* of customer electrical
31 load shall be authorized by the commission for all customer
32 classes, including, but not limited to small commercial or
33 residential customers. ~~Aggregation~~ *Private aggregation* may be
34 accomplished by private market aggregators, ~~cities, counties,~~
35 ~~special districts, and public agencies not qualifying as community~~
36 ~~choice aggregators, or on any other basis made available by~~
37 ~~market opportunities and agreeable by positive written declaration~~
38 ~~by individual consumers.~~

39 (c) ~~If a public agency seeks to serve as a community aggregator~~
40 ~~on behalf of residential customers, it shall be obligated to offer the~~



1 ~~opportunity to purchase electricity to all residential customers~~
2 ~~within its jurisdiction.~~ (1) Any municipality or any group of
3 municipalities acting together is hereby authorized to aggregate
4 the electrical load of interested electricity consumers within its
5 boundaries to reduce transaction costs to consumers, provide
6 consumer protections, and leverage the negotiation of contracts.
7 However, the municipality or group of municipalities may not
8 aggregate electrical load if served by an existing municipal
9 lighting plant. A municipality or group of municipalities may
10 group retail electricity customers to solicit bids, broker, and
11 contract for electric power and energy services for those
12 customers. The municipality or group of municipalities may enter
13 into agreements for services to facilitate the sale and purchase of
14 electric energy and other related services. Those service
15 agreements may be entered into by a single city or county, a city
16 and county, or by a group of cities, cities and counties, or counties.

17 (2) Under municipal aggregation, customer participation may
18 not require a positive written declaration, but all customers shall
19 be informed of their right to opt out of the municipal aggregation
20 program. If no negative declaration is made by a customer, that
21 customer shall be served through the municipality's aggregation
22 program.

23 (3) A municipality or group of municipalities establishing load
24 aggregation pursuant to this section shall develop an
25 implementation plan, for review by its citizens, detailing the
26 process and consequences of aggregation. Any municipal load
27 aggregation established pursuant to this section shall provide for
28 universal access, reliability, and equitable treatment of all classes
29 of customers and shall meet any requirements established by state
30 law or by the commission concerning aggregated service. A
31 municipality or group of municipalities establishing load
32 aggregation shall prepare and file with the commission a statement
33 of intent with the implementation plan. The plan shall include all
34 of the following:

- 35 (A) An organizational structure of the program, its operations,
36 and its funding.
- 37 (B) Ratesetting and other costs to participants.
- 38 (C) The methods for entering and terminating agreements with
39 other entities.
- 40 (D) The rights and responsibilities of program participants.



1 (E) Termination of the program.

2 (4) All electrical corporations shall cooperate fully with
3 municipalities that investigate, pursue, or implement community
4 choice aggregation programs. Cooperation shall include
5 providing municipalities with all billing and load data, providing
6 all billing information to the community choice aggregator's
7 supplier, and selling streetlights at a 'book" depreciated value if
8 a municipality chooses to purchase them.

9 (5) A city or city and county may aggregate electrical load upon
10 authorization by a majority vote of its city council or governing
11 board, with the approval of the mayor, or the city manager in
12 municipalities with the city manager form of government. Two or
13 more municipalities may as a group authorize aggregation by a
14 majority vote of each governing body of the particular
15 municipality as herein required.

16 (6) Participation by any retail customer in a municipal
17 aggregation program shall be voluntary. Following adoption of
18 aggregation through the votes specified above, such a program
19 shall allow any retail customer to opt out and choose any supplier
20 or provider. Within 30 days of the date the aggregated entity is fully
21 operational, a customer shall be transferred to the aggregated
22 entity. Once enrolled in the aggregated entity, any ratepayer that
23 chooses to opt out within 180 days of the date of enrollment may
24 do so without penalty and shall be entitled to receive default
25 service pursuant to paragraph (4) of subdivision (a), as if the
26 customer was originally enrolled therein. Any re-entry fees to be
27 imposed after the 180-day opt-out period shall be approved by the
28 commission and shall reflect the cost of re-entry.

29 (7) Nothing in this section shall be construed as authorizing
30 any city or any municipal retail load aggregator to restrict the
31 ability of retail electric customers to obtain or receive service from
32 any authorized service provider.

33 (8) The aggregated entity shall fully inform participating
34 customers in advance of automatic enrollment, and for not less
35 than three consecutive billing cycles following enrollment, of both
36 of the following:

37 (A) That they are to be automatically enrolled and that the
38 customer has the right to opt out of the aggregated entity without
39 penalty.

40 (B) The terms and conditions of the services offered.



1 (9) *The electrical corporation shall include the information*
2 *required pursuant to paragraph (8) in the electrical corporation's*
3 *normally scheduled monthly billing process for the aggregated*
4 *entity's consumers, in the following manner:*

5 (A) *Once in a normally scheduled bill mailed prior to*
6 *automatic enrollment, as directed by the aggregated entity.*

7 (B) *Once a month following enrollment for not less than three*
8 *consecutive normally scheduled billing cycles, as directed by the*
9 *aggregated entity.*

10 (10) *The aggregated entity shall register with the commission,*
11 *which may require additional information to ensure compliance*
12 *with basic consumer protection rules and other procedural*
13 *matters.*

14 (11) *Once the community choice aggregator's contract is*
15 *signed, the community choice aggregator shall notify the*
16 *applicable electrical corporation that community choice service*
17 *will commence within 30 days.*

18 (12) *Once notified of a community choice aggregator program,*
19 *the electrical corporation shall transfer all applicable accounts to*
20 *the new supplier within a 30-day period from the date of the close*
21 *of their normally scheduled monthly metering and billing process.*

22 SEC. 4. Section 381 of the Public Utilities Code is amended
23 to read:

24 381. (a) To ensure that the funding for the programs
25 described in subdivision (b) and Section 382 ~~are~~ is not
26 commingled with other revenues, the commission shall require
27 each electrical corporation to identify a separate rate component
28 to collect the revenues used to fund these programs. The rate
29 component shall be a nonbypassable element of the local
30 distribution service and collected on the basis of usage. This rate
31 component shall fall within the rate levels identified in subdivision
32 (a) of Section 368.

33 (b) The commission shall allocate funds collected pursuant to
34 subdivision (a), and any interest earned on collected funds, to
35 programs ~~which~~ that enhance system reliability and provide
36 in-state benefits as follows:

37 (1) Cost-effective energy efficiency and conservation
38 activities.

39 (2) Public interest research and development not adequately
40 provided by competitive and regulated markets.



1 (3) In-state operation and development of existing and new and
2 emerging renewable resource technologies defined as electricity
3 produced from other than a conventional power source within the
4 meaning of Section 2805, provided that a power source utilizing
5 more than 25 percent fossil fuel may not be included.

6 (c) The ~~Public Utilities Commission~~ *commission* shall order
7 the respective electrical corporations to collect and spend these
8 funds, as follows:

9 (1) Cost-effective energy efficiency and conservation activities
10 shall be funded at not less than the following levels commencing
11 January 1, 1998, through December 31, 2001: for San Diego Gas
12 and Electric Company a level of thirty-two million dollars
13 (\$32,000,000) per year; for Southern California Edison Company
14 a level of ninety million dollars (\$90,000,000) for each of the years
15 1998, 1999, and 2000; fifty million dollars (\$50,000,000) for ~~the~~
16 ~~year~~ 2001; and for Pacific Gas and Electric Company a level of one
17 hundred six million dollars (\$106,000,000) per year.

18 (2) Research, development, and demonstration programs to
19 advance science or technology that are not adequately provided by
20 competitive and regulated markets shall be funded at not less than
21 the following levels commencing January 1, 1998 through
22 December 31, 2001: for San Diego Gas and Electric Company a
23 level of four million dollars (\$4,000,000) per year; for Southern
24 California Edison Company a level of twenty-eight million five
25 hundred thousand dollars (\$28,500,000) per year; and for Pacific
26 Gas and Electric Company a level of thirty million dollars
27 (\$30,000,000) per year.

28 (3) In-state operation and development of existing and new and
29 emerging renewable resource technologies shall be funded at not
30 less than the following levels on a statewide basis: one hundred
31 nine million five hundred thousand dollars (\$109,500,000) per
32 year for each of the years 1998, 1999, and 2000, and one hundred
33 thirty-six million five hundred thousand dollars (\$136,500,000)
34 for ~~the year~~ 2001. To accomplish these funding levels over the
35 period described herein the San Diego Gas and Electric Company
36 shall spend twelve million dollars (\$12,000,000) per year, the
37 Southern California Edison Company shall expend no less than
38 forty-nine million five hundred thousand dollars (\$49,500,000)
39 for the years 1998, 1999, and 2000, and no less than seventy-six
40 million five hundred thousand dollars (\$76,500,000) for ~~the year~~



1 2001, and the Pacific Gas and Electric Company shall expend no
2 less than forty-eight million dollars (\$48,000,000) per year
3 through the year 2001. Additional funding not to exceed
4 seventy-five million dollars (\$75,000,000) shall be allocated from
5 moneys collected pursuant to subdivision (d) in order to provide
6 a level of funding totaling five hundred forty million dollars
7 (\$540,000,000).

8 (4) Up to fifty million dollars (\$50,000,000) of the amount
9 collected pursuant to subdivision (d) may be used to resolve
10 outstanding issues related to implementation of subdivision (a) of
11 Section 374. Moneys remaining after fully funding the provisions
12 of this paragraph shall be reallocated for purposes of paragraph
13 (3).

14 (5) Up to ninety million dollars (\$90,000,000) of the amount
15 collected pursuant to subdivision (d) may be used to resolve
16 outstanding issues related to contractual arrangements in the
17 Southern California Edison service territory stemming from the
18 Biennial Resource Planning Update auction. Moneys remaining
19 after fully funding the provisions of this paragraph shall be
20 reallocated for purposes of paragraph (3).

21 (d) Notwithstanding any other provisions of this chapter,
22 entities subject to the jurisdiction of the ~~Public Utilities~~
23 ~~Commission~~ *commission* shall extend the period for competition
24 transition charge collection up to three months beyond its
25 otherwise applicable termination of December 31, 2001, so as to
26 ensure that the aggregate portion of the research, environmental,
27 and low-income funds allocated to renewable resources shall equal
28 five hundred forty million dollars (\$540,000,000) and that the
29 costs specified in paragraphs (3), (4), and (5) of subdivision (c) are
30 collected.

31 (e) Each electrical corporation shall allow customers to make
32 voluntary contributions through their utility bill payments as
33 either a fixed amount or a variable amount to support programs
34 established pursuant to paragraph (3) of subdivision (b). Funds
35 collected by electrical corporations for these purposes shall be
36 forwarded in a timely manner to the appropriate fund as specified
37 by the commission.

38 (f) The commission shall determine how to utilize funds for
39 purposes of paragraphs (1) and (2) of subdivision (b), provided
40 that only those research and development funds for transmission



1 and distribution functions shall remain with the regulated public
2 utilities under the supervision of the commission. The commission
3 shall provide for the transfer of all research and development funds
4 collected for purposes of paragraph (2) of subdivision (b) other
5 than those for transmission and distribution functions and funds
6 collected for purposes of paragraph (3) of subdivision (b) to the
7 California Energy Resources Conservation and Development
8 Commission pursuant to administration and expenditure criteria to
9 be established by the Legislature.

10 (g) The commission's authority to collect funds pursuant to this
11 section for purposes of paragraph (3) of subdivision (b) shall
12 become inoperative on March 31, 2002.

13 (h) For purposes of this article, "emerging renewable
14 technology" means a new renewable technology, including, but
15 not limited to, photovoltaic technology, that is determined by the
16 California Energy Resources Conservation and Development
17 Commission to be emerging from research and development and
18 that has significant commercial potential.

19 (i) (1) *The commission shall authorize municipalities to file*
20 *for a pro rata share of energy efficiency funds collected from their*
21 *customers by electrical corporations. The commission shall*
22 *authorize municipalities to spend the funds on energy efficiency*
23 *measures that benefit their customers, subject to any rules adopted*
24 *by the commission to ensure accurate accounting, verification,*
25 *and adherence to a plan filed by the entity.*

26 (2) *The California Energy Resources Conservation and*
27 *Development Commission shall set aside, at the beginning of each*
28 *fiscal year, funds to allow municipalities, upon appropriation of*
29 *those funds, to design and implement renewable energy programs.*
30 *Additional local aggregation during the course of the year shall*
31 *lead to additional set-asides.*

32 (3) *Upon the application of a municipality with a qualifying*
33 *municipal program, the California Energy Resources*
34 *Conservation and Development Commission shall grant an*
35 *amount equaling a pro rata share of funds contributed by the*
36 *municipality's customers. Qualifying municipal programs shall*
37 *include, but not be limited to, all of the following:*

38 (A) *Support for existing renewable energy capacity.*

39 (B) *Incentives for the installation of new renewable energy*
40 *capacity.*



1 (C) *Customer subsidies for the purchase of electricity produced*
2 *by renewable energy.*

3 (4) *The California Energy Resources Conservation and*
4 *Development Commission shall define qualifying renewable*
5 *technologies consistent with program guidelines.*

6 (5) *The California Energy Resources Conservation and*
7 *Development Commission shall adopt regulations to ensure*
8 *annual verification and reconciliation for all funds granted to*
9 *municipalities pursuant to this subdivision.*

10 SEC. 5. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety
12 within the meaning of Article IV of the Constitution and shall go
13 into immediate effect. The facts constituting the necessity are:

14 In order to address the rapid, unforeseen shortage of electric
15 power and energy available in the state and rapid and substantial
16 increases in wholesale energy costs and retail energy rates, that
17 endanger the health, welfare, and safety of the people of this state,
18 it is necessary for this act to take effect immediately.

