

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: July 12, 2011

To: The Commission
(Meeting of July 14, 2011)

From: Edward Randolph, Director
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SB 939 (Wright) – Natural gas surcharge.
As amended: June 28, 2011**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support with technical amendments

SUMMARY OF BILL:

This bill eliminates the requirement that CPUC regulated natural gas utilities remit public purpose program (PPP) surcharge revenues to the State Board of Equalization (BOE) for deposit in the Gas Consumption Surcharge Fund. Gas utilities would instead retain the surcharge collect from ratepayers but would continue to be required to spend on the funds on the PPPs under the direction of the California Public Utilities Commission (CPUC). The BOE would continue to collect gas surcharge revenues from customers of interstate pipeline companies that are not subject to CPUC jurisdiction.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

This bill reduces unnecessary administrative complexity in the collection of this surcharge, reduces the CPUC's administrative burden, and will save gas ratepayers money by eliminating BOE administrative expenses. Additionally, by leaving the natural gas PPP funds in utility accounts instead of transferring the funds to a BOE account, the bill ensures the funds will be spent on the PPP funds and not reallocated for other purposes.

The proposed amendments are mostly technical in nature and further reduce the administrative complexity of the remittance of the research and development (R&D) portion of the surcharge paid by customers of interstate pipeline companies.

SUMMARY OF SUGGESTED AMENDMENTS:

Section 890(a), 890(b), 890(c), and 890(f) – “rate adjustments”

It is unclear why the term “rate adjustments” is used in these sections rather than the term “rates.”

Recommendation: Change the term “rate adjustments” to “rates.”

Section 890(e) – Interstate pipeline customer outside of public utility gas corporation service territory

Existing law requires an interstate pipeline customer to pay the same surcharge applicable to the gas utility service territory it is located in. However, the statute does not address the situation where an interstate pipeline customer is not located within a gas utility service territory, which may occur in the rural areas of California traversed by an interstate pipeline.

Recommendation: Amend section 890(e) to read: “... is located, *or if not located within a public utility gas corporation service territory, the applicable surcharge of the nearest public utility gas corporation service territory.*”

Section 895(a)(1) – Transfer of funds to the CEC for administration of R&D program

Under SB 939, only surcharge revenues from customers of interstate pipeline companies would be remitted to BOE for deposit in the Gas Surcharge Consumption Fund. Pursuant to existing section 895(a), these revenues would be continuously appropriated to the CPUC or an entity designated by the CPUC (e.g., IOUs) to administer the PPPs. Existing section 895(a)(1) requires the Controller to transfer monies from the fund to the CEC for its administration of the public interest gas R&D program if designated by the CPUC. This last step is unnecessary since the CPUC can simply direct the gas utilities to transfer these monies to the CEC, similar to the approach in SB 939. This would eliminate the need to reimburse the Controller for its administrative expenses from a revenue source that is relatively small.

Recommendation: Eliminate Section 895(a)(1).

DIVISION ANALYSIS (Energy Division):

Requiring gas utilities to remit PPP surcharge revenues to the BOE serves little public benefit, especially when administrative expenses and transaction costs reduce the total revenues allocated to PPPs. Since the remittances are ultimately returned to gas utilities, except for amounts withheld for gas R&D and BOE administrative expenses, it simply makes sense for the utilities to retain them after collection. SB 939 will allow gas utilities to retain the surcharge revenues to fund PPPs under the direction of the CPUC. These programs, and their administration and oversight would not change under the bill. SB 939 will also reduce the CPUC’s administrative burden associated with returning gas surcharge revenues remitted to BOE back to the gas utilities.

Currently, smaller gas utilities may need to borrow funds (possibly at ratepayer expense) to fund their PPPs while waiting for the return of their gas surcharge revenues from the BOE. SB 939 would eliminate this need and the need for ratepayers to reimburse gas utilities for any borrowing costs.

PROGRAM BACKGROUND:

Decision 04-08-010 established procedures for implementing the gas surcharge. This decision would need to be modified to conform to SB 939 if signed into law and to require gas utilities to transfer R&D funds directly to the CEC. This would likely be done through a rulemaking proceeding.

LEGISLATIVE HISTORY:

AB 1002 (Stats 2000, Ch. 932) established the gas surcharge in 2001. Specifically, the bill imposed a surcharge on all natural gas consumed in California to fund specified low-income, energy efficiency, conservation and public interest research programs.

STATUS:

SB 939 is awaiting hearing in the Assembly Appropriations Committee.

SUPPORT/OPPOSITION:

Support: California Chamber of Commerce (CalChamber)
Pacific Gas and Electric Company (PG&E)
San Diego Gas & Electric Company (SDG&E)
Southern California Gas Company (SoCalGas)

Opposition: None on file.

STAFF CONTACTS:

Dan Chia, Deputy Director-OGA

(916) 324-5945

dc2@cpuc.ca.gov

BILL LANGUAGE:

BILL NUMBER: SB 939 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 28, 2011
AMENDED IN ASSEMBLY JUNE 15, 2011

INTRODUCED BY Senator Wright

MARCH 21, 2011

An act to amend Sections 890, 892, 892.2, 893, and 894 of, and to repeal Section 892.1 of, the Public Utilities Code, relating to the natural gas surcharge.

LEGISLATIVE COUNSEL'S DIGEST

SB 939, as amended, Wright. Natural gas surcharge.

Existing law ~~establishes~~ requires the Public Utilities Commission to establish a surcharge on all natural gas consumed in the state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development. Existing law requires a public utility gas corporation, as defined, to collect the surcharge from natural gas consumers, as specified, and to remit the moneys collected to the State Board of Equalization (state board) on a quarterly basis. Existing law requires persons consuming natural gas delivered by an interstate pipeline to pay the surcharge to the state board. Existing law requires every public utility gas corporation and every person consuming natural gas transported by a provider other than the public utility gas corporation to file a quarterly return with the state board in the form prescribed by the state board. The money from the surcharge is transmitted by the state board to the Treasurer for deposit in the Gas Consumption Surcharge Fund and is continuously appropriated to specified entities, including to the commission, or to an entity designated by the commission, to fund low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development not adequately provided by the competitive and regulated markets.

This bill would require the commission to establish rate adjustments to fund the specified low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development, and would require the surcharges imposed on natural gas customers to be equal to those rate adjustments. The bill would require only persons consuming natural gas delivered by an interstate pipeline to pay the surcharge quarterly to the state board and require only those persons consuming natural gas transported by a provider other than the public utility gas corporation to file a quarterly return with the state board. A public utility gas corporation would continue to collect the surcharge to fund the specified programs, but would not remit the moneys collected

to the state board. *The bill would repeal existing provisions relieving public utility gas corporations from liability to collect the surcharges for specified uncollected and worthless accounts.*

The bill would make other conforming changes.

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 890 of the Public Utilities Code is amended to read:

890. (a) ~~On and after January 1, 2001, there shall be imposed a surcharge on all natural gas consumed in this state. The commission shall establish a surcharge~~
rate adjustments to fund low-income assistance programs required by Sections 739.1, 739.2, and 2790 and cost-effective energy efficiency and conservation activities and public interest research and development authorized by Section 740 and not adequately provided by the competitive and regulated markets. ~~Upon implementation of this article, funding for those programs shall be removed from the rates of gas utilities.~~

(b) ~~(1)~~ - Except as specified in Section 898, a public utility gas corporation, as defined in subdivision (b) of Section 891, shall collect the ~~surcharge~~
rate adjustments imposed pursuant to subdivision (a) from any person consuming natural gas in this state who receives gas service from the public utility gas corporation.

~~(2) A public utility gas corporation is relieved from liability to collect the surcharge insofar as the base upon which the surcharge is imposed is represented by accounts which have been found to be worthless and charged off in accordance with generally accepted accounting principles. If the public utility gas corporation has previously paid the amount of the surcharge it may, under regulations prescribed by the State Board of Equalization, take as a deduction on its return the amount found to be worthless and charged off. If any accounts are thereafter collected in whole or in part, the surcharge so collected shall be paid with the first return filed after that collection. The commission may by regulation promulgate other rules with respect to uncollected or worthless accounts as it determines to be necessary to the fair and efficient administration of this part.~~

(c) Except as specified in Section 898, all persons consuming natural gas in this state that has been transported by an interstate pipeline, as defined in subdivision (c) of Section 891, shall be liable for ~~the~~ a surcharge *equal to the rate adjustment* imposed pursuant to subdivision (a).

(d) The commission shall annually determine the amount of money required for the following year to administer this chapter and fund the natural gas related programs described in subdivision (a) for the service territory of each public utility gas corporation.

(e) The commission shall annually establish a ~~surcharge~~
rate for each class of customer for the service territory of each public utility gas corporation. A customer of an interstate gas pipeline, as defined in *subdivision (c) of Section 891*, shall pay ~~the same surcharge~~ a *surcharge*

that is equal to the same rate as the customer would pay if the customer received service from the public utility gas corporation in whose service territory the customer is located. The commission shall determine the total volume of retail natural gas transported within the service territory of a utility gas provider, that is not subject to exemption pursuant to Section 896, for the purpose of establishing the surcharge rate.

(f) The commission shall allocate the *appropriate rate adjustment and* surcharge for gas used by all customers, including those customers who were not subject to the surcharge prior to January 1, ~~2001~~ 2012

(g) The commission shall notify the State Board of Equalization of the surcharge ~~rate~~ for each class of customer served by an interstate pipeline in the service territory of a public utility gas corporation.

(h) The State Board of Equalization shall notify each person who consumes natural gas delivered by an interstate pipeline of the surcharge ~~rate~~ for each class of customer within the service territory of a public utility gas corporation.

~~(i) The surcharge imposed pursuant to subdivision (a) shall be in addition to any other charges for natural gas sold or transported for consumption in this state. Effective on July 1, 2001, the surcharge imposed pursuant to this article shall be identified as a separate line item on the bill of a customer of a public utility gas corporation.~~

~~(j)~~

(i) ~~Notwithstanding subdivision (a), public~~
P *ublic* utility gas corporations shall continue to collect in rates those costs of programs described in subdivision (a) ~~of Section 890~~ that are uncollected prior to the operative date of this article.

~~SECTION 1.~~ *SEC. 2.* Section 892 of the Public Utilities Code is amended to read:

892. Persons consuming natural gas delivered by an interstate pipeline shall pay the surcharge *quarterly* to the State Board of Equalization in the form of remittances. The board shall transmit the payments to the Treasurer who shall deposit the payments in the Gas Consumption Surcharge Fund, which is hereby created in the State Treasury.

~~SEC. 2.~~ *SEC. 3.* Section 892.1 of the Public Utilities Code is repealed.

~~SEC. 3.~~ *SEC. 4.* Section 892.2 of the Public Utilities Code is amended to read:

892.2. On or before the last day of the month following each calendar quarter, a return for the preceding quarterly period shall be filed with the State Board of Equalization, in such form as the board may ~~prescribe,~~ *prescribe*. A return shall be filed by every person consuming, as defined in this article, natural gas transported by a provider other than the public utility gas corporation. The return shall be signed by the person required to file the return or by his or her duly authorized agent.

~~SEC. 4.~~ *SEC. 5.* Section 893 of the Public Utilities Code is amended to read:

893. The State Board of Equalization shall administer the surcharge imposed pursuant to this article that is remitted to it in accordance with the Fee Collection Procedures Law (Part 30

(commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.

~~SEC. 5.~~ SEC. 6. Section 894 of the Public Utilities Code is amended to read:

894. The State Board of Equalization may collect any unpaid surcharge imposed pursuant to this article that is to be remitted to it pursuant to Section 892.2.