STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 27, 2009

To: The Commission
(Meeting of June 4, 2009)

From: Pamela Loomis, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1108 (Fuentes) Electric and gas utility service: master-meter customers.**
As amended May 4, 2009

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE UNLESS AMENDED

SUMMARY OF BILL:

This bill requires the Commission to ensure that the revenue that discount master meter customers receive from the otherwise applicable tariff from the utility is spent on metering, billing and the upkeep of the sub-metering infrastructure. It would make mobile home park (MHP) operators located in the service territories of the investor-owned utilities (IOUs) subject to the CPUC's direct jurisdiction and oversight. The CPUC staff would be required to receive complaints, perform inspections, audits and enforcement at the mobile home parks to ensure the discount money is spent only on billing and metering, and maintenance of the sub-metering infrastructure. It would permit the PUC to deny future eligibility for the master metering rate discount to a master metering customer, if discount monies received were not spent properly. This bill further requires the owner of a master-metered mobile home park to transfer ownership and operational responsibility for the gas or electric system to the gas or electric IOU.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

- The master metering discount revenues received by a MHP owner are intended to pay, for timely, accurate, and professional meter reading and billing expenses and for minor maintenance, such as repairing a meter that is not giving an accurate reading. The discounts were never intended to provide for upgrading the systems to

provide adequate levels of service where they do not yet exist. In general, rents and rent increases by MHP owners are the mechanism to fund needed upgrades.

- Gas service or maintenance complaints are rare. Electric service complaints of low voltage or outages typically do not stem from poor maintenance of the sub-metering system. Usually, they are due to the MHP load growing beyond its initial design capacity. This is not a maintenance issue, but a system adequacy and upgrading issue.

- CPUC staff is not aware that lack of submetering system maintenance is a significant problem, though lack of system capacity may be. It appears that establishing trustee accounts is unlikely to reduce complaints about system performance. This bill does not define maintenance or establish a goal, but apparently concludes that reports of poor service by residents served by submetered gas and electric distribution systems in mobilehome parks (MHPs) are due to a lack of maintenance. CPUC staff is not aware of any data to support that linkage.

- In addition, the cost of administering the bill could be high. It is likely that the CPUC could find few master-metering customers who have failed to maintain their systems, but identifying those few instances would be labor intensive for the CPUC.

SUMMARY OF SUGGESTED AMENDMENTS:

- AB 1108 should be narrowed to require the owner of a master-metered mobile home park to transfer ownership and operational responsibility for the gas or electric system to the gas or electric IOU.

- Remove language regarding CPUC responsibility for enforcement and oversight of master-meter customers maintaining or repairing their submeter facilities.

- Remove requirement of CPUC to hold money in trust to be expended for maintenance and repair of a mobile home parks submeter facilities.

DIVISION ANALYSIS (Energy Division):

- The bill expands the CPUC jurisdiction to include enforcement of MHP owners to maintain their electric as well as gas submeter infrastructure.

- Should the PUC find in a proceeding after investigation that maintenance was lacking, this bill would require the CPUC to act as a trustee and administer a trust account to pay for maintenance found lacking. This bill would place increasing numbers of master-metering customers under direct PUC jurisdiction following PUC findings of failure to repair or maintain submetered facilities. CPUC would be reviewing and performing enforcement to ensure the funds are spent by the landlords on the upkeep

of the sub-metering systems. It would place administration of their individual accumulated discount funds under PUC and staff supervision.

PROGRAM BACKGROUND:

- Not all master metering customers submeter and they are not affected by this bill because they place their gas and electric charges in fixed rent. Their failure to uphold any terms of a lease is a civil matter not under PUC administrative law. The remaining master-metering customers conservatively number 3,000 electric and 3,000 gas statewide are subject to the provisions of this bill.

- The master metering discount revenues are intended to pay only for timely accurate professional meter reading and billing expenses, and for minor maintenance such as if the submeter itself began to read inaccurately. The discounts are not intended to ensure safe systems, or to provide for upgrading service levels.

- The Commission already has an effective gas safety program required by code, and CPUC staff believes that electrical reliability and safety problems in mobile home parks have more to do with inadequate capacity than with lack of maintenance. Discount revenues should not and could not fund electric submeter system capacity upgrades.

- The CPUC is authorized by federal law to enforce federal pipeline safety standards for MHP operators. Inspections must occur no less than every five years. If the operator does not demonstrate compliance, they may be inspected on an annual basis. There are currently 18 inspectors for both gas and electric inspections of utilities, including the responsibility of MHP gas inspections.

- In 2004, the CPUC adopted Decision 04-04-043, which identifies the categories of costs the electric and natural gas utilities incur when directly serving MHP tenants that are avoided by the utilities when the MHP is served through a distribution system owned by the MHP owner (sub-metered MHP). These categories of costs are to be used in determining the amount of the discount provided by the utility to the sub-metered MHP owner as reimbursement for the cost of providing sub-metered service.

- Earlier this year, Decision 09-02-030 ordered Southern California Gas to accept the transfer of Harbor City Estates' submeter gas system. Harbor City operates and maintains the system, which serves 192 spaces in a MHP in Harbor City, California, with SoCalGas providing the master meter gas service.

- Public Utilities Code Section 739.5 (g) requires the commission to accept and respond to complaints through the consumer affairs branch. In responding to the complaint, the commission shall consider the role that the office of the county sealer in the complainant's county of residence may have in helping to resolve the complaint and, where appropriate, coordinate with that office.

- This bill may involve overlapping of authority with the Department of Housing and Community Development that currently has electrical safety jurisdiction in mobile home parks.

LEGISLATIVE HISTORY:

AB 622 (Conroy), Chapter 424, Statutes of 1996, required gas and electric corporations to assume ownership of master-metered systems in mobile home parks upon the completion of a specified process. AB 622 required the mobile home park owner to pay the costs of an engineering evaluation and the costs of upgrading the system. Some mobile home park owners claim that the AB 622 requirements have made the transfer of the systems cost-prohibitive. AB 1108 repeals the AB 622 requirements and instead requires that the utilities assume ownership of these systems under terms to be determined by the PUC.

STATUS:

AB 1108 is currently on the Assembly Appropriations Suspense File.

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Date: May 27, 2009

BILL LANGUAGE:

BILL NUMBER: AB 1108 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 4, 2009
AMENDED IN ASSEMBLY APRIL 22, 2009

INTRODUCED BY Assembly Member Fuentes

FEBRUARY 27, 2009

An act to amend Sections 739.5, 2791, 2797, and 2798 ~~of, to add the heading of Chapter 1 (commencing with Section 9500) to, and to add Chapter 2 (commencing with Section 9505) to, Division 4.8~~ of, and to repeal Sections 2792, 2793, 2794, 2795, 2796, ~~2799, and 12821.5~~ *and 2799* of, the Public Utilities Code, relating to utility service.

LEGISLATIVE COUNSEL'S DIGEST

AB 1108, as amended, Fuentes. Electric and gas 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 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 electrical or gas 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 (master-meter discount). Existing law provides that every master-meter customer is responsible for the maintenance and repair of its submeter facilities beyond the master-meter.

This bill would authorize the commission, if it finds that a master-meter customer has failed to maintain or repair its submeter facilities beyond the master-meter, to order the master-meter customer to maintain or repair those facilities and would authorize the commission, in addition to the commission's authority to make or enforce orders pursuant to the Public Utilities Act, to order that moneys received as a result of the master-meter discount be held in trust to be expended for maintenance and repair of the submeter facilities. The bill would require a master-meter customer to separately bill for gas or electric service, or both, and rent. This bill would prohibit a master-meter customer from charging a user of electricity or gas any late charge for nonpayment or delayed payment of rent. The bill would require that any late charge imposed by a master-meter customer for nonpayment or delayed payment by a user for

gas or electric service be in an amount that does not exceed that which the electrical or gas corporation would charge for nonpayment or delayed payment for electric or gas service.

(2) 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 electrical 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 require 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 electrical corporation providing service in the area in which the park or community is located. The bill would require the commission to permit the gas or electrical corporation to recover, in its revenue requirements and rates, all costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems. The bill would require the commission to adopt a standard form agreement for transfer of gas and electric distribution facilities in mobilehome parks and manufactured housing communities that would be the basis for expedited approval of the transfers and would require that the contract be based on rules approved by the commission.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program ~~bu~~ *by* creating a new crime.

~~(3) The existing Municipal Utility District Act authorizes the formation of a municipal utility district and authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter. Existing law requires that, when light, heat, or power 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 service directly from a municipal utility district. Existing law additionally requires that the master meter customer provide an itemized billing of charges for light, heat, and power to each individual user generally in accordance with the form and content of bills of the district to its residential customers. Existing law provides that every master meter customer receiving light, heat, or power from a municipal utility district is responsible for maintenance and repair of its submeter facilities beyond the master meter.~~

~~This bill would repeal this provision. The bill would provide 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 a local publicly owned electric or gas utility. The bill would require a master meter customer to provide an itemized billing of charges for electricity or gas to each user in accordance with the form and content of bills of the local publicly owned electric or gas utility to its residential customers. The bill would require a master-meter customer to separately bill for gas or electric service, or both, and rent. The bill would prohibit a master-meter customer from charging a user of electricity or gas any late charge for nonpayment or delayed payment of rent. The bill would require that any late charge imposed by a master meter customer for nonpayment or delayed payment by a user for gas or electric service be in an amount that does not exceed that which the local publicly owned electric or gas utility would charge for nonpayment or delayed payment for electric or gas service. The bill would provide that every master-meter customer receiving electric or gas service from a local publicly owned electric or gas utility is responsible for maintenance and repair of its submeter facilities beyond the master-meter. The bill would authorize the commission, if it finds that a master-meter customer has failed to maintain or repair its submeter facilities beyond the master-meter, to order the master meter customer to maintain or repair those facilities and would authorize the commission, in addition to the commission's authority to make or enforce orders pursuant to the Public Utilities Act, to order that moneys received as a result of a master-meter discount provided by a local publicly owned electric or gas utility be held in trust to be expended for maintenance and repair of the submeter facilities. The bill would require a local publicly owned electric or gas utility to notify each master-meter customer of these obligations. By placing additional requirements upon local publicly owned electric and gas utilities, the bill would impose a state mandated local program.~~

~~(4) 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 specified reasons.~~

(3) 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.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 739.5 of the Public Utilities Code is amended to read:

739.5. (a) (1) The commission shall require that, whenever gas or electric service, or both, 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 shall charge each user of the service at the same rate that would be applicable if

the user were receiving gas or electricity, or both, directly from the gas or electrical corporation.

(2) The commission shall require the electrical or gas corporation furnishing service to the master-meter customer to establish uniform rates for master-meter service 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.

(b) Every master-meter customer of a gas or electrical corporation subject to subdivision (a) who, on or after January 1, 1978, receives any rebate from the corporation shall distribute to, or credit to the account of, each current user served by the master-meter customer that portion of the rebate which the amount of gas or electricity, or both, consumed by the user during the last billing period bears to the total amount furnished by the corporation to the master-meter customer during that period.

(c) An electrical or gas corporation furnishing service to a master-meter customer shall furnish to each user of the service within a submetered system every public safety customer service which it provides beyond the meter to its other residential customers. The corporation shall furnish a list of those services to the master-meter customer who shall post the list in a conspicuous place accessible to all users. Every corporation shall provide these public safety customer services to each user of electrical or gas service under a submetered system without additional charge unless the corporation has included the average cost of these services in the rate differential provided to the master-meter customer on January 1, 1984, in which case the commission shall deduct the average cost of providing these public safety customer services when approving rate differentials for master-meter customers.

(d) (1) Every master-meter customer is responsible for maintenance and repair of its submeter facilities beyond the master-meter, and nothing in this section requires an electrical or gas corporation to make repairs to or perform maintenance on the submeter system.

(2) If the commission finds that a master-meter customer has failed to maintain or repair its submeter facilities beyond the master-meter, the commission may order the master-meter customer to maintain or repair those facilities.

(3) In addition to any authority granted the commission to make or enforce orders pursuant to Chapter 11 (commencing with Section 2100), if the commission finds that a master-meter customer has failed to maintain or repair its submeter facilities beyond the master-meter, the commission may order that the rate differential established pursuant to subdivision (a) be held in trust to be expended for maintenance and repair of the submeter facilities.

(e) (1) Every master-meter customer shall provide an itemized billing of charges for electricity or gas, or both, to each user generally in accordance with the form and content of bills of the corporation to its residential customers, including, but not limited to, the opening and closing readings for the meter, and the identification of all rates and quantities attributable to each block in the applicable rate structure. The master-meter customer shall also post, in a conspicuous place, the applicable prevailing residential gas or electrical rate schedule, as published by the

corporation.

(2) Notwithstanding any other provision of law, a master-meter customer shall separately bill each user for gas or electric service, or both, and rent. A master-meter customer shall not charge a user of electricity or gas any late charge for gas or electric service as a result of nonpayment or delayed payment of rent. For nonpayment of delayed payment of gas or electric service by a user, the master-meter customer may impose a late charge up to an amount that does not exceed that which the electrical or gas corporation would charge for nonpayment or delayed payment for electric or gas service.

(f) The commission shall require that every electrical and gas corporation shall notify each master-meter customer of its responsibilities to its users under this section.

(g) The commission shall accept and respond to complaints concerning the requirements of this section through the consumer affairs branch, in addition to any other staff that the commission deems necessary to assist the complainant. In responding to the complaint, the commission shall consider the role that the office of the county sealer in the complainant's county of residence may have in helping to resolve the complaint and, where appropriate, coordinate with that office.

(h) Notwithstanding any other provision of law or decision of the commission, the commission shall not deny eligibility for the California Alternative Rates for Energy (CARE) program, created pursuant to Section 739.1, for a residential user of gas or electric service who is a submetered resident or tenant served by a master-meter customer on the basis that some residential units in the master-meter customer's mobilehome park, apartment building, or similar residential complex do not receive gas or electric service through a submetered system.

SEC. 2. Section 2791 of the Public Utilities Code is amended to read:

2791. The owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents shall transfer ownership and operational responsibility for the gas or electric system to the gas or 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 electrical corporation mutually agree.

SEC. 3. Section 2792 of the Public Utilities Code is repealed.

SEC. 4. Section 2793 of the Public Utilities Code is repealed.

SEC. 5. Section 2794 of the Public Utilities Code is repealed.

SEC. 6. Section 2795 of the Public Utilities Code is repealed.

SEC. 7. Section 2796 of the Public Utilities Code is repealed.

SEC. 8. Section 2797 of the Public Utilities Code is amended to read:

2797. The commission shall permit the 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.

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

2798. The commission shall adopt a standard form of agreement for transfer of gas and electric distribution facilities in mobilehome

parks and manufactured housing communities that shall be the basis for expedited approval of the transfers. The contract shall be based on rules approved by the commission.

SEC. 10. Section 2799 of the Public Utilities Code is repealed.

~~SEC. 11. The heading of Chapter 1 (commencing with Section 9500) is added to Division 4.8 of the Public Utilities Code, to read:~~

~~CHAPTER 1. WEATHERIZATION SERVICES~~

~~SEC. 12. Chapter 2 (commencing with Section 9505) is added to Division 4.8 of the Public Utilities Code, to read:~~

~~CHAPTER 2. MASTER-METER CUSTOMERS~~

~~9505. (a) (1) Whenever gas or electric service, or both, 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 shall charge each user of the service at the same rate that would be applicable if the user were receiving gas or electricity, or both, directly from a local publicly owned electric or gas utility.~~

~~(2) Notwithstanding any other provision of law, a master-meter customer shall separately bill each user for gas or electricity service, or both, and rent. A master meter customer shall not charge a user of electricity or gas any late charge for gas or electric service as a result of nonpayment or delayed payment of rent. For nonpayment or delayed payment of gas or electric service by a user, the master meter customer may impose a late charge up to an amount that does not exceed that which the local publicly owned electric or gas utility would charge for nonpayment or delayed payment for electric or gas service.~~

~~(b) Every master-meter customer of a gas or electrical corporation subject to subdivision (a) who receives any rebate from the local publicly owned electric or gas utility shall distribute to, or credit to the account of, each current user served by the master-meter customer that portion of the rebate which the amount of gas or electricity, or both, consumed by the user during the last billing period bears to the total amount furnished by the utility to the master-meter customer during that period.~~

~~(c) (1) Every master-meter customer is responsible for maintenance and repair of its submeter facilities beyond the master-meter, and nothing in this section requires a local publicly owned electric or gas utility to make repairs to or perform maintenance on the submeter system. For purposes of this subdivision only, a master-meter customer of a local publicly owned electric or gas utility is subject to the jurisdiction of the commission.~~

~~(2) If the commission finds that a master meter customer has failed to maintain or repair its submeter facilities beyond the master-meter, the commission may order the master-meter customer to maintain or repair those facilities.~~

~~(3) In addition to any authority granted the commission to make or enforce orders pursuant to Chapter 11 (commencing with Section 2100), if the commission finds that a master-meter customer has~~

~~failed to maintain or repair its submeter facilities beyond the master meter, the commission may order that any master meter discount provided to the master-meter customer by a local publicly owned electric or gas utility be held in trust to be expended for maintenance and repair of the submeter facilities.~~

~~(d) Every master-meter customer shall provide an itemized billing of charges for electricity or gas, or both, to each user generally in accordance with the form and content of bills of the local publicly owned electric or gas utility to its residential customers, including the opening and closing readings for the meter, and the identification of all rates and quantities attributable to each block in the applicable rate structure. The master meter customer shall also post, in a conspicuous place, the applicable prevailing residential gas or electrical rate schedule, as published by the utility.~~

~~(e) A local publicly owned electric or gas utility shall notify each master meter customer of its responsibilities to its users under this section.~~

~~(f) The commission shall accept and respond to complaints of users of a mater-meter customer concerning the requirements of subdivision (e) through the consumer affairs branch, in addition to any other staff that the commission deems necessary to assist the complainant. In responding to the complaint, the commission shall consider the role that the office of the county sealer in the complainant's county of residence may have in helping to resolve the complaint and, where appropriate, coordinate with that office.~~

~~SEC. 13. Section 12821.5 of the Public Utilities Code is repealed.~~

~~SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because certain 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.~~

~~With respect to certain other costs, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.~~

SEC. 11. 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.