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AB-2168 Public Utilities Commission Audit Compliance Act of 2016. (2015-2016)

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Assembly Bill No. 2168

CHAPTER 805

An act to amend Sections 314.5 and 792.5 of, and to add Section 910.7 to, the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 29, 2016. Filed with Secretary of State September 29, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2168, Williams. Public Utilities Commission Audit Compliance Act of 2016.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, gas corporations, heat corporations, telegraph corporations, telephone corporations, and water corporations. The California Constitution authorizes the commission to establish rules, examine records, and prescribe a uniform system of accounts for all public utilities. The Public Utilities Act requires the commission to inspect and audit the books and records of electrical corporations, gas corporations, heat corporations, telegraph corporations, telephone corporations, and water corporations for regulatory and tax purposes. An inspection and audit is required to be done at least every 3 years if the utility has over 1,000 customers and at least every 5 years if the utility has 1,000 or fewer customers. The act requires that reports of the inspections and audits and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities.

This bill, which would be known as the Public Utilities Commission Audit Compliance Act of 2016, would delete the requirement that the reports of the inspections and audits and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities and instead would require the commission to post reports of the inspections and audits and other pertinent information on its Internet Web site.

(2) Existing law directs the commission to require a public utility to establish and maintain a reserve account whenever the commission authorizes a change in rates reflecting and passing through to customers specific changes in costs to reflect the balance between the related costs and revenues.

This bill would rename the reserve accounts "balancing accounts" and would require the commission to develop a risk-based approach for reviewing those balancing accounts periodically to ensure that the transactions recorded in the balancing accounts are for allowable purposes and are supported by appropriate documentation. The bill would require the commission to maintain an inventory of the balancing accounts and would require public utilities to record all related costs and revenues in their balancing accounts. The bill would require the commission to adopt balancing account review procedures that prioritize the review of balancing accounts with specified attributes and to annually provide the Legislature with an update on the status of its review of balancing accounts.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. This act shall be known, and may be cited, as the Public Utilities Commission Audit Compliance Act of 2016.

SEC. 2. (a) The Legislature hereby finds and declares that the California State Auditor, at the behest of the Joint Legislative Audit Committee, has made multiple legislative recommendations relating to the operations of the Public Utilities Commission in recent years. Those include, among other recommendations, both of the following:

(1) The Legislature should amend Section 314.5 of the Public Utilities Code to remove the requirement that the Public Utilities Commission provide audit reports to the State Board of Equalization (Report 2013-109, Recommendation 15).

(2) To ensure proper oversight of balancing accounts to protect ratepayers from unfair rate increases, the Legislature should amend Section 792.5 of the Public Utilities Code to require the Public Utilities Commission to develop a risk-based approach for reviewing all balancing accounts periodically to ensure that the transactions recorded in the balancing accounts are for allowable purposes and are supported by appropriate documentation, such as invoices (Report 2013-109, Recommendation 1).

(b) It is the intent of the Legislature in enacting this act to codify the California State Auditor's legislative recommendations described in subdivision (a) to ensure that the Public Utilities Commission continues to prioritize the protection of ratepayers and remains accountable to legislative oversight.

SEC. 3. Section 314.5 of the Public Utilities Code is amended to read:

314.5. The commission shall inspect and audit the books and records for regulatory and tax purposes (1) at least once every three years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving over 1,000 customers, and (2) at least once every five years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving 1,000 or fewer customers. An audit conducted in connection with a rate proceeding shall be deemed to fulfill the requirements of this section. The commission shall post reports of the inspections and audits and other pertinent information on its Internet Web site.

SEC. 4. Section 792.5 of the Public Utilities Code is amended to read:

792.5. (a) Whenever the commission authorizes any change in rates reflecting and passing through to customers specific changes in costs, except rates set for common carriers, the commission shall require as a condition of the order that the public utility establish and maintain a balancing account reflecting the balance, whether positive or negative, between the related costs and revenues, and the commission shall take into account by appropriate adjustment or other action any positive or negative balance remaining in the balancing account at the time of any subsequent rate adjustment.

(b) The commission shall develop a risk-based approach for reviewing all balancing accounts periodically to ensure that the transactions recorded in the balancing accounts are for allowable purposes and are supported by appropriate documentation.

(c) The commission shall maintain an inventory of the balancing accounts established pursuant to this section.

(d) The commission shall require the public utility to record all related costs and revenues in the balancing account, unless those costs or revenues are specifically exempted by the commission.

(e) The commission shall adopt balancing account review procedures that prioritize the review of the following balancing accounts:

(1) Balancing accounts with a quarter-end balance with more than a 10-percent differential from the balancing account's authorized revenue amount.

(2) Balancing accounts with an authorized revenue amount that is in the top 25th percentile of all balancing accounts.

(3) Balancing accounts that have experienced volatile fluctuations in their quarterly balances over time.

(4) Balancing accounts that have not been reviewed in the previous three years.

(f) The commission may forgo the review of a balancing account pursuant to this section if the Office of Ratepayer Advocates or an independent auditor plans to review or audit the balancing account. The balancing account review procedures adopted pursuant to subdivision (e) do not apply to the Office of Ratepayer Advocates, and the commission shall retain sole responsibility for the results of those reviews or audits conducted by the Office of Ratepayer Advocates or by independent auditors.

SEC. 5. Section 910.7 is added to the Public Utilities Code, to read:

910.7. The commission shall annually provide the Legislature with an update on the status of its review of public utilities' balancing accounts pursuant to Section 792.5. The commission shall provide this update as part of its annual report published pursuant to Section 910 or by posting it in a conspicuous area of its Internet Web site, or both.