



**BRIEFING PAPER ON SB142 (RUBIO)
THE RATEPAYER FAIRNESS ACT OF 2011**
Regarding Fair and Equitable Utility Rates
Sponsored by the Kern County Taxpayers Association

OVERVIEW. KernTax is a member-supported, non-partisan, 501(c) 4 non-profit corporation, whose purpose is to bring about, through cooperative effort and communication, greater economy, efficiency, and effectiveness in government, basing its recommendations upon the analysis of facts obtained through research. Being non-partisan, KernTax is politically independent, viewing matters and policies in an objective, impartial manner, and taking positions based on the Association's adopted principles. Founded in 1939, KernTax has had only one bias, the best interests of Kern County taxpayers.

KernTax views any government collection of funds through any financial conduit to be taxation, be it clearly identified as a tax, a fee for government service or a regulated rate structure. If it is excessive or not appropriate, KernTax must, by charter, act to educate and facilitate resolution and ensure fair representation and treatment. Kern County citizens should expect no less from KernTax and its members. We do not seek subsidies; we simply seek fair return to our local citizens from all regulatory bodies and their agent for levied taxes, fees, rates etc. We believe that this perspective aligns closely with the underlying constitutional compact from which the CPUC derives authority to regulate the rates of public utilities as well as the goals of PG&E and other public utilities, and we hope to represent the broad public interests of ratepayers, taxpayers, utilities and the CPUC in achieving a lasting resolution of the current structurally flawed statutorily-mandated residential electricity rate system.

WHY IS KernTax SPONSORING SB142? It is the absence of the ability of the Public Utilities Commission under law to establish just and reasonable pricing and rate designs, and the unduly discriminatory treatment among similarly-situated electric ratepayers, both external to the residential electric ratepayer class and within the residential rate class that causes KernTax to participate in hearings on residential electric rates before the California Public Utilities Commission and to sponsor this bill to advocate for legislative reforms to correct the discrimination and inequities in current structurally flawed residential electricity rates. Without this proposed legislation, KernTax is deeply concerned that the continued extreme disparity in electricity rates will unfairly burden and average electricity ratepayers with high and volatile electricity rates that far exceed the average cost of the utility service being provided them, thus crushing them with more and more "price gouging" when they can afford it less and less.

EFFECT STATEWIDE. There are two types of utility providers in the state of California. First, local governments provide utility services through municipal utility districts and irrigation districts and set their own rates. Second, the State regulates the electricity rates charged by the three large investor-owned utilities: Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company. For these utilities, the State Legislature sets policies through the legislative process and the CPUC regulates the implementation of these policies. SB142 only affects the rates charged by the investor-owned electric utilities, and, more specifically, only removes a statutory restriction which prevents the Public Utilities Commission from reforming the current inequitable and discriminatory "tiered" electric rate structure charged by those utilities.

PUBLIC POLICY BENEFITS: Over ten years ago, the State Legislature enacted laws that were intended to freeze certain electric rates and provide more equitable treatment of customers who use less electricity than others. Unfortunately, over time, as the overall costs of electricity have gone up, the unintended consequences of these laws has been the creation of different “tiers” of electric rates charged residential that have raised electricity rates to average customers to extremely high levels never intended when the Legislature originally enacted the laws. These “tiered” electric rates, similar to the automatic “bracket creep” of some tax laws, have resulted in highly discriminatory and inequitable electricity rate structures for both residential and non-residential electricity customers. Also unfortunately, the laws are written so that the Public Utilities Commission is powerless to reform these inequitable rates unless the laws are changed. For these reasons, the California Legislature must exercise its overall authority over the Public Utilities Commission to address the unintended inequities of these prior laws, so that, all electricity customers in any given rate class have the same fair and equitable economic incentives to conserve and use electricity wisely.

SUMMARY OF PROPOSED LEGISLATION: The proposed legislation requires the Public Utilities Commission, after a hearing and by no later than June 1, 2012, to reform the existing electric rate charged by investor-owned utilities by reforming the existing so-called “tiered rate structure” that charges residential customers higher and higher prices that exceed the cost of serving those customers. The Public Utilities Commission may provide for a reasonable transition period for reform of the “tiered” rates, but the “tiered” rates must be reformed by no later than January 1, 2015. In addition, the Public Utilities Commission may include reasonable conservation incentives in the reformed rate structure, but the incentives must be fair and equitable and take into account factors outside the control of customers, such as weather and climate.

PROBLEM OR DEFICIENCY IN CURRENT LAW: As an example, in PG&E’s service area, some rates for lower usage customers have been frozen for 20 years and are 50 percent below the average cost of power, while some rates for higher using customers have been almost 50 cents/kWh, over 160 percent above the average cost of power. These rate disparities far exceed a reasonable discount for low-usage and low income customers, and also would permanently exempt most residential electricity customers from paying the true cost of power, including the costs of greenhouse gas emissions intended to be included in electricity rates under the Global Climate Solutions Act of 2006.

PENDING OR FINALIZE REGULATORY DECISIONS OR ORDERS ON SUBJECT: The Public Utilities Commission enforces these rate disparities and “tiered” electric rates in period rate cases and rate design proceedings filed by the investor-owned utilities, including PG&E.

STUDIES, REPORTS, FACTS, AND STATISTICS SUPPORTING THE NEED FOR LEGISLATIVE ACTION: The extreme disparity and discrimination in the investor-owned utilities including PG&E is of public record in the rates and tariffs filed by the utilities. In addition, in PG&E’s current Phase 2 General Rate Case, Docket No. A.10-03-014, KernTax and other parties have provided extensive testimony and pleadings demonstrating the unfairness of the current statutorily-mandated rate structure.

CAN PROBLEM BE RESOLVED BY OTHER MEANS: No, the current rate structure is mandated by the Legislature; only the Legislature can order it reformed.

RATEPAYER IMPACT: If the current “tiered” residential electric rate structure is eliminated, the monthly bills of customers who pay excessively high prices for the higher tiered rates would go down to more closely reflect the actual cost of power. The monthly bills of lower usage customers would go up over time to more closely reflect the actual cost of power.

PRIOR LEGISLATIVE ATTEMPTS/ REASON FOR FAILURE: In 2009, the Legislature enacted SB 695, which provided the Public Utilities Commission some narrow discretion to adjust the “tiered” electric rates, but continued to prohibit broad reform of electric rates by the PUC.

URGENCY (DOES THE BILL NEED TO BECOME EFFECTIVE PRIOR TO THE BEGINNING OF THE NEXT CALENDAR YEAR: No.

LIKELY POSITIONS OF REGULATORY AGENCIES, LOCAL GOVERNMENT, OTHER REGULATED ENTITIES, COMPETITORS, ETC. AND ENTITIES THAT MAY CO-SPONSOR THE LEGISLATION: Special interest groups that support higher electric rates in order to maintain subsidies for higher costs sources of energy, such Solar Alliance and Vote Solar, may oppose the bill. Advocates for low income groups, such as TURN, the Greenlining Institute and Disability Advocates, may oppose the bill because it would gradually raise electric rates to low usage and low income customers that have been frozen for over 20 years. The investor-owned utilities and the Public Utilities Commission should support the bill.