

## Assembly Bill No. 2778

### CHAPTER 617

An act to amend Section 379.6 of the Public Utilities Code, relating to electricity.

[Approved by Governor September 29, 2006. Filed with  
Secretary of State September 29, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2778, Lieber. Electricity: self-generation incentive program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the commission, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2008, a self-generation incentive program for distributed generation resources in the same form that exists on January 1, 2004, subject to certain air emissions and efficiency standards. In a decision, the PUC adopted the California Solar Initiative, which modified the self-generation incentive program for distributed generation resources and provides incentives to customer-side photovoltaics and solar thermal electric projects under one megawatt.

This bill would require the commission, in consultation with the Energy Commission, to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources. The program in its currently existing form, would be applicable to all eligible technologies, as determined by the commission, until January 1, 2008, except for solar technologies, which the commission would be required to administer separately, after January 1, 2007, pursuant to the California Solar Initiative. The bill, commencing January 1, 2008, until January 1, 2012, would limit eligibility for nonsolar technologies to fuel cells and wind distributed generation technologies that meet or exceed the emissions standards required under the distributed generation certification program adopted by the State Air Resources Board. The bill would require the Energy Commission, on or before November 1, 2008, in consultation with the commission and the board, to evaluate the costs and benefits of providing ratepayer subsidies for renewable and fossil fuel "ultraclean and low-emission distributed generation," as defined, as part of the Energy Commission's integrated energy policy report.

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

SECTION 1. Section 379.6 of the Public Utilities Code is amended to read:

379.6. (a) (1) The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall administer, until January 1, 2012, the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000.

(2) Except as provided in paragraph (3), the extension of the program pursuant to Chapter 894 of the Statutes of 2003, as amended by Chapter 675 of the Statutes of 2004 and Chapter 22 of the Statutes of 2005, shall apply to all eligible technologies, as determined by the commission, until January 1, 2008.

(3) The commission shall administer solar technologies separately, after January 1, 2007, pursuant to the California Solar Initiative adopted by the commission in Decision 06-01-024.

(b) Commencing January 1, 2008, until January 1, 2012, eligibility for the program pursuant to paragraphs (1) and (2) of subdivision (a) shall be limited to fuel cells and wind distributed generation technologies that meet or exceed the emissions standards required under the distributed generation certification program requirements of Article 3 (commencing with Section 94200) of Subchapter 8 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations.

(c) Eligibility for the self-generation incentive program's level 3 incentive category shall be subject to the following conditions:

(1) Commencing January 1, 2007, all combustion-operated distributed generation projects using fossil fuel shall meet an oxides of nitrogen (NO<sub>x</sub>) emissions rate standard of 0.07 pounds per megawatthour and a minimum efficiency of 60 percent. A minimum efficiency of 60 percent shall be measured as useful energy output divided by fuel input. The efficiency determination shall be based on 100 percent load.

(2) Combined heat and power units that meet the 60-percent efficiency standard may take a credit to meet the applicable NO<sub>x</sub> emissions standard of 0.07 pounds per megawatthour. Credit shall be at the rate of one megawatthour for each 3.4 million British thermal units (Btus) of heat recovered.

(3) Notwithstanding paragraph (1), a project that does not meet the applicable NO<sub>x</sub> emissions standard is eligible if it meets both of the following requirements:

(A) The project operates solely on waste gas. The commission shall require a customer that applies for an incentive pursuant to this paragraph to provide an affidavit or other form of proof, that specifies that the project shall be operated solely on waste gas. Incentives awarded pursuant to this paragraph shall be subject to refund and shall be refunded by the recipient to the extent the project does not operate on waste gas. As used in this paragraph, "waste gas" means natural gas that is generated as a byproduct

of petroleum production operations and is not eligible for delivery to the utility pipeline system.

(B) The air quality management district or air pollution control district, in issuing a permit to operate the project, determines that operation of the project will produce an onsite net air emissions benefit, compared to permitted onsite emissions if the project does not operate. The commission shall require the customer to secure the permit prior to receiving incentives.

(d) In determining the eligibility for the self-generation incentive program, minimum system efficiency shall be determined either by calculating electrical and process heat efficiency as set forth in Section 218.5, or by calculating overall electrical efficiency.

(e) In administering the self-generation incentive program, the commission may adjust the amount of rebates, include other ultraclean and low-emission distributed generation technologies, as defined in Section 353.2, and evaluate other public policy interests, including, but not limited to, ratepayers, and energy efficiency and environmental interests.

(f) On or before November 1, 2008, the State Energy Resources Conservation and Development Commission, in consultation with the commission and the State Air Resources Board, shall evaluate the costs and benefits, including air pollution, efficiency, and transmission and distribution system improvements, of providing ratepayer subsidies for renewable and fossil fuel “ultraclean and low-emission distributed generation,” as defined in Section 353.2, as part of the integrated energy policy report adopted pursuant to Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code. The State Energy Resources Conservation and Development Commission shall include recommendations for changes in the eligibility of technologies and fuels under the program, and whether the level of subsidy should be adjusted, after considering its conclusions on costs and benefits pursuant to this subdivision.