

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1807

Introduced by Assembly Member Fuentes

January 16, 2008

An act to add ~~Section~~ *Sections 387.2 and 399.21* to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1807, as amended, Fuentes. Renewable electric generation facilities: feed-in tariffs.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity by electrical corporations and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard).

Existing law requires every electrical corporation to file with the commission a standard tariff for renewable energy output produced at an electric generation facility, as defined, that is an eligible renewable energy resource and meets other size, deliverability, and interconnection requirements. Existing law requires the electrical corporation to make

this tariff available to public water or wastewater agencies that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come, first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 250 megawatts. Existing law requires that the electric generation facility be located on property owned or under the control of the public water or wastewater agency and be sized to offset part or all of the generator's electricity demand. Existing law provides that the renewable energy output of an electric generation facility counts toward the electrical corporation's renewables portfolio standard and resource adequacy requirements.

This bill would require every electrical corporation to file with the commission a ~~standard~~ feed-in tariff, *as defined*, for the electricity *delivered to the grid that is generated by a renewable electric generation facility, as defined, that is an eligible renewable energy resource and meets other size, deliverability, and interconnection requirements.* The bill would require the commission to ~~consult with the Energy Commission and the Independent System Operator in approving feed-in tariffs~~ *develop a methodology for determining a base rate to be paid for electricity that is generated by a renewable electric generation facility and to adjust the base rate to be paid in future years so that the base rate declines over time to reflect improvements in technology and operational practices. The bill would authorize an electrical corporation to make adjustments to the base rate to incentivize the generation of electricity to meet load within the electrical corporation's individual service territory, including generation of electricity to match peak demand and regional adjustments to match deliverability of electricity to load centers. The bill would require the commission to reduce the tariff rate to reflect federal and state tax and other credits, subsidies, or other incentives received for a renewable electric generation facility.* The bill would require the electrical corporation to make the feed-in tariff available to any customer of the electrical corporation, upon request, on a first-come, first-served basis, until the electrical corporation meets its renewables portfolio standard. ~~The~~

The bill would require the commission to ensure that a customer's eligibility to receive service pursuant to the feed-in tariff is determined in advance so that a customer can invest in a renewable electric generation facility knowing that the customer will be eligible to receive service pursuant to the feed-in tariff and the ~~market~~ tariff price that will be applicable to that customer. The bill would authorize the commission

to place time limitations upon a customer for completion of the renewable electric generation facility to remain eligible for the feed-in tariff at the applicable ~~market tariff~~ price and to establish reasonable operation and reliability standards for a renewable electric generation facility to remain eligible for the feed-in tariff at the applicable ~~market tariff~~ price. ~~The~~

*The bill would provide that any renewable energy credit, as defined, for electricity delivered to the grid and purchased by the electrical corporation belongs to the electrical corporation, and that any renewable energy credit associated with electricity generated by the customer that is utilized by the customer and not delivered to the grid remains the property of the customer. The bill would provide that the electricity generated by the renewable electric generation facility, including generation used to offset the customer's own usage of electricity, counts toward the electrical corporation's renewables portfolio standard and resource adequacy requirements. The bill would ~~authorize~~ *prohibit* a customer receiving electrical service pursuant to an alternative net metering program, as defined, ~~to elect from electing~~ to receive service pursuant to the feed-in tariff filed by an electrical corporation pursuant to the bill's requirements and would provide that a customer ~~electing to receive~~ *receiving* service pursuant to the feed-in tariff waives any right the customer otherwise has to thereafter receive service pursuant to an alternative net metering program.*

~~This bill would require the commission, in consultation with the Energy Commission, to develop feed-in tariffs for eligible renewable energy resources of more than 20 megawatts that value a diverse mix of sources of renewable energy based upon the most successful feed-in tariffs utilized in Europe. The bill would require the commission, in consultation with the Independent System Operator, to establish tariff provisions that facilitate both the renewables portfolio standard program and the reliable operation of the grid.~~

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime. Because this bill would require an order or other action of the commission to implement its provisions and a violation of that order or action would be a crime, the bill would impose a state-mandated local program by creating a new crime.

Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission), beginning November 1, 2003, and every 2 years thereafter, to adopt an integrated energy policy report which includes an assessment and forecast of system

reliability and the need for resource additions, efficiency, and conservation.

This bill would require the Energy Commission to study the feasibility and desirability of implementing a feed-in tariff for eligible renewable energy resources of more than 20 megawatts, based upon the most successful feed-in tariffs utilized in Europe, in order to advance the state’s energy goals and needs and to report its findings to the Legislature in the next integrated energy policy report.

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:

1 SECTION 1. Section 387.2 is added to the Public Utilities
2 Code, to read:

3 387.2. (a) It is the policy of this state and the intent of the
4 Legislature to encourage energy production from renewable
5 resources in an amount commensurate with electricity demand.
6 Utilization of feed-in tariffs for electricity generated by renewable
7 energy resources can help the state achieve its goals and assist
8 the utility in achieving its renewables portfolio standard.

9 (b) The governing board of each local publicly owned electric
10 utility is encouraged to develop and implement a feed-in tariff for
11 the utility that provides for payment for every kilowatthour of
12 electricity generated by a renewable electric generation facility
13 at the tariff price approved by the governing board for a period
14 of 10, 15, or 20 years.

15 ~~SECTION 1.~~

16 SEC. 2. Section 399.21 is added to the Public Utilities Code,
17 to read:

18 399.21. (a) It is the policy of this state and the intent of the
19 ~~Legislature to encourage energy production from renewable~~
20 ~~resources in an amount commensurate with electricity demand.~~
21 *Legislature, through implementation of a feed-in tariff for*

1 *electricity generated by renewable electric generation facilities,*
2 *to achieve all of the following:*

3 (1) *The generation of electricity from eligible renewable energy*
4 *resources in an amount and location commensurate with the*
5 *growth of electrical load within each load area.*

6 (2) *The deployment of eligible renewable energy resources in*
7 *a timely manner in order to eliminate, to the greatest extent*
8 *possible, the need for additional powerplants using fossil fuels to*
9 *generate electricity.*

10 (3) *The growth of green-collar jobs in California by developing*
11 *industries that build and deploy eligible renewable energy*
12 *resources.*

13 (4) *The lending of capital for eligible renewable electric*
14 *generation facilities by ensuring a stable revenue stream for project*
15 *developers.*

16 (5) *The adoption of just and reasonable payments for electricity*
17 *generated by renewable electric generation facilities that protect*
18 *electrical corporations and ratepayers from inflated generation*
19 *costs resulting from the exercise of market power arising from*
20 *future renewable energy attainment targets and that protect*
21 *electrical corporations from receiving insufficient bids through*
22 *the competitive bidding process to meet their renewables portfolio*
23 *standard purchasing requirements.*

24 (6) *To increase the diversity of technologies that are eligible*
25 *renewable energy resources.*

26 (b) As used in this section the following terms have the
27 following meanings:

28 (1) “Alternative net metering program” means any program that
29 requires an electrical corporation to purchase or credit electricity
30 generated by a subscriber pursuant to Article 3 (commencing with
31 Section 2821) of Chapter 7 of Part 2.

32 (2) “Eligible renewable energy resource” has the same meaning
33 as defined in Section 399.12.

34 (3) “Feed-in tariff” means the schedule detailing the rates,
35 rules, and terms of service that is filed by an electrical corporation
36 and approved by the commission that is applicable to the purchase
37 of electricity generated by a renewable electric generation facility
38 by the electrical corporation pursuant to this section.

39 (2)

1 (4) “Renewable electric generation facility” means a facility for
 2 the generation of electricity that is owned and operated by a
 3 customer of an electrical corporation and that meets all of the
 4 following criteria:

5 (A) Has an effective generating capacity of *more than one and*
 6 *one-half and* not more than 20 megawatts and is located on
 7 property owned or under the control of the customer.

8 (B) Is interconnected and operates in parallel with the electric
 9 transmission and distribution grid.

10 (C) Is strategically located and interconnected to the electric
 11 transmission system in a manner that optimizes the deliverability
 12 of electricity generated at the facility to load centers.

13 (D) Is an eligible renewable energy resource, ~~as defined in~~
 14 ~~Section 399.12.~~

15 ~~(e) Every electrical corporation shall file with the commission~~
 16 ~~a standard feed-in tariff for the electricity generated by a renewable~~
 17 ~~electric generation facility. The commission shall consult with the~~
 18 ~~Energy Commission and the Independent System Operator in~~
 19 ~~approving feed-in tariffs.~~

20 ~~(d) The feed-in tariff shall provide for payment for every~~
 21 ~~kilowatthour of electricity generated at a renewable electric~~
 22 ~~generation facility at the market price as determined by the~~
 23 ~~commission pursuant to Section 399.15 for a period of 10, 15, or~~
 24 ~~20 years, as authorized by the commission.~~

25 *(c) (1) The commission shall develop and approve a feed-in*
 26 *tariff for each electrical corporation that provides for payment for*
 27 *every kilowatthour of electricity generated by a renewable electric*
 28 *generation facility that is delivered to the grid, at the tariff price*
 29 *approved by the commission for a period of 10, 15, or 20 years.*

30 *(2) By June 1, 2010, the commission shall develop both of the*
 31 *following for each eligible renewable energy resource:*

32 *(A) A methodology for determining a base rate to be paid for*
 33 *electricity that is generated by a renewable electric generation*
 34 *facility. A separate base rate shall apply for each technology that*
 35 *is an eligible renewable energy resource. The base rate shall be*
 36 *calculated based upon the cost of generation, using best available*
 37 *practices for the individual technology, plus a reasonable profit*
 38 *as determined by the commission.*

39 *(B) A methodology for adjusting the base rate to be paid for*
 40 *electricity generated by renewable electric generation facilities*

1 *in future years so that the base rate declines over time to reflect*
2 *improvements in technology and operational practices.*

3 *(3) The commission shall, upon development of the methodology*
4 *pursuant to paragraph (2), require each electrical corporation to*
5 *file a feed-in tariff for approval by the commission. An electrical*
6 *corporation may adjust the base rate of its feed-in tariff to*
7 *incentivize the generation of electricity to meet load within the*
8 *electrical corporation's individual service territory, including*
9 *generation of electricity to match peak demand and regional*
10 *adjustments to match deliverability of electricity to load areas.*
11 *Any adjustment to the base rate shall be based upon future*
12 *projections of electricity demand within its service territory or a*
13 *load area.*

14 *(4) The commission shall reduce the tariff rate to reflect federal*
15 *and state tax and other credits, subsidies, or other incentives*
16 *received for a renewable electric generation facility. The*
17 *commission shall review tariff rates at least annually to ensure*
18 *that the rate is reduced to reflect federal and state tax and other*
19 *credits, subsidies, or other incentives received for a renewable*
20 *electric generation facility.*

21 *(5) The commission shall annually adjust the feed-in tariff rates*
22 *paid for electricity generated by a renewable electric generation*
23 *facility for inflation and component price in light of current market*
24 *conditions.*

25 *(d) Upon adoption of the feed-in tariff by the commission, any*
26 *renewable energy credit, as defined in Section 399.12, for*
27 *electricity delivered to the grid and purchased by the electrical*
28 *corporation shall belong to the electrical corporation. Any*
29 *renewable energy credit associated with electricity generated by*
30 *the customer that is utilized by the customer and not delivered to*
31 *the grid shall remain the property of the customer.*

32 *(e) Every electrical corporation shall make the feed-in tariff*
33 *available to customers that own and operate a renewable electric*
34 *generation facility within the service territory of the electrical*
35 *corporation, upon request, on a first-come, first-served basis, until*
36 *the electrical corporation meets its renewables portfolio standard.*
37 *An electrical corporation may make the terms of the feed-in tariff*
38 *available to customers in the form of a standard contract subject*
39 *to commission approval. An electrical corporation shall only be*
40 *required to offer service or contracts under this section until that*

1 electrical corporation meets its renewables portfolio standard, as
2 determined by the commission.

3 (f) The commission shall ensure that a customer's eligibility to
4 receive service pursuant to the feed-in tariff is determined in
5 advance so that a customer can invest in a renewable electric
6 generation facility knowing that the customer will be eligible to
7 receive service pursuant to the feed-in tariff and the ~~market tariff~~
8 price that will be applicable to that customer. The commission
9 may place time limitations upon a customer for completion of the
10 renewable electric generation facility to remain eligible for the
11 feed-in tariff at the applicable ~~market tariff~~ price. The commission
12 may establish reasonable operation and reliability standards for a
13 renewable electric generation facility to remain eligible for the
14 feed-in tariff at the applicable ~~market tariff~~ price.

15 (g) Every kilowatthour of the electricity generated by the
16 renewable electric generation facility, including generation used
17 to offset the customer's own usage of electricity, shall count toward
18 the electrical corporation's renewables portfolio standard annual
19 procurement targets for purposes of paragraph (1) of subdivision
20 (b) of Section 399.15.

21 (h) The physical generating capacity of a renewable electric
22 generation facility shall count toward the electrical corporation's
23 resource adequacy requirement for purposes of Section 380.

24 (i) (1) A customer receiving electrical service pursuant to an
25 alternative net metering program may *not* elect to receive service
26 pursuant to the feed-in tariff filed by an electrical corporation
27 pursuant to this section.

28 (2) A customer that ~~elects to receive~~ *receives* electrical service
29 pursuant to the feed-in tariff filed by an electrical corporation
30 pursuant to this section waives any right that the customer
31 otherwise has to thereafter receive service pursuant to an alternative
32 net metering program.

33 ~~(j) The commission, in consultation with the Energy~~
34 ~~Commission, shall develop feed-in tariffs for eligible renewable~~
35 ~~energy resources of more than 20 megawatts that value a diverse~~
36 ~~mix of sources of renewable energy based upon the most successful~~
37 ~~feed-in tariffs utilized in Europe.~~

38 (k)

1 (j) The commission shall, in consultation with the Independent
2 System Operator, establish tariff provisions that facilitate both the
3 provisions of this chapter and the reliable operation of the grid.

4 *SEC. 2. The State Energy Resources Conservation and*
5 *Development Commission shall study the feasibility and desirability*
6 *of implementing a feed-in tariff for eligible renewable energy*
7 *resources of more than 20 megawatts, based upon the most*
8 *successful feed-in tariffs utilized in Europe, in order to advance*
9 *the state's energy goals and needs. The commission shall report*
10 *its findings to the Legislature in the next integrated energy policy*
11 *report prepared pursuant to Section 25302 of the Public Resources*
12 *Code.*

13 ~~SEC. 2.~~

14 *SEC. 3.* No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.