

ASSEMBLY BILL

No. 2820

Introduced by Assembly Member Huffman
(Coauthor: Senator Migden)

February 22, 2008

An act to add Article 13.5 (commencing with Section 398) to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2820, as introduced, Huffman. Renewable energy resources.

(1) 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 electricity generated by 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 provides that every kilowatthour of electricity generated by the electric generation facility counts toward the electrical corporation's renewables portfolio standard and resource adequacy requirements.

This bill would require an electrical corporation that owns and operates transmission and distribution facilities that deliver electricity at one or more locations to a local public agency, as defined, upon the request of the local public agency, to use those facilities to deliver renewable electricity, as defined, generated by the local public agency. The bill would authorize a local public agency to designate specific renewable electric generation facilities, as defined, owned by the local public agency for the generation of renewable electricity to be delivered to any local public agency, if the amount of all renewable electricity delivered to the electric grid by the designated renewable electric generation facility is the property of the generating local public agency. The bill would require a local public agency that receives renewable electricity delivered by an electrical corporation to pay certain rates and charges. The bill would require every electrical corporation to file with the commission a standard tariff for the delivery of renewable electricity pursuant to the bill, and to make these tariffs available to local public agencies that own and operate a renewable electric generation facility, upon request.

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 be part of the act and 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 expanding the definition of a crime.

(2) 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. Article 13.5 (commencing with Section 398) is
2 added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
3 Code, to read:

4
5 Article 13.5. Local Public Agencies
6

7 398. (a) As used in this section:

8 (1) “Environmental attributes” associated with the generation
9 of renewable electricity include the credits, benefits, emissions
10 reductions, environmental air quality credits, and emissions
11 reduction credits, offsets, and allowances, however entitled,
12 resulting from the avoidance of the emissions of any gas, chemical,
13 or other substance attributable to a renewable electric generation
14 facility.

15 (2) “Local public agency” means any city or county, whether
16 general law or chartered, city and county, town, special district,
17 school district, municipal corporation, political subdivision, joint
18 powers authority or agency created pursuant to Chapter 5
19 (commencing with Section 6500) of Division 7 of Title 1 of the
20 Government Code, or other local public agency, if authorized by
21 law to generate electricity, but shall not mean the state or any
22 agency or department of the state.

23 (3) “Renewable electric generation facility” means a facility for
24 the generation of electricity that is owned and operated by a local
25 public agency that meets all of the following criteria:

26 (A) Has an effective generating capacity of not more than 20
27 megawatts.

28 (B) Is located on property owned or under the control of the
29 local public agency.

30 (C) Is a facility described in paragraph (1) of subdivision (b) of
31 Section 25741 of the Public Resources Code.

32 (4) “Renewable electricity” means electricity produced by a
33 local public agency from a renewable electric generation facility.

34 (b) To ensure that no electrical corporation operates its
35 transmission and distribution system in a manner that impedes the
36 ability of public agencies to reduce their electricity costs through
37 the delivery of renewable electricity generated by public agencies,

1 an electrical corporation shall meet all of the requirements of this
2 section.

3 (c) Every electrical corporation that owns and operates
4 transmission and distribution facilities that deliver electricity at
5 one or more locations to a local public agency shall, upon request
6 by a local public agency, and without discrimination or delay, use
7 those facilities to deliver renewable electricity generated by a local
8 public agency. A local public agency may designate specific
9 renewable electric generation facilities owned by the local public
10 agency for the generation of renewable electricity to be delivered
11 to any local public agency pursuant to this section, if the amount
12 of all renewable electricity delivered to the electric grid by the
13 designated renewable electric generation facility is the property
14 of the generating local public agency.

15 (d) (1) No rule, order, or tariff of the commission implementing
16 direct transactions is applicable to renewable electricity generated
17 by a renewable electric generation facility, that is delivered to a
18 local public agency for use by a local public agency, and is
19 transported over the transmission and distribution system of an
20 electrical corporation, pursuant to an election made by a local
21 public agency pursuant to subdivision (c).

22 (2) Deliveries of renewable electricity generated by a renewable
23 electric generation facility, and delivered to local public agencies
24 for use by local public agencies, that are transported over the
25 transmission and distribution system of an electrical corporation
26 pursuant to subdivision (c), are not “direct transactions between
27 electricity suppliers and end-use customers” within the meaning
28 of Sections 365 and 366, and those sections are not applicable to
29 those deliveries.

30 (3) Notwithstanding Section 218, a public agency that owns
31 and operates a renewable electric generation facility is not an
32 electrical corporation solely because of the delivery of renewable
33 electricity to a public agency pursuant to this section.

34 (e) A local public agency that receives renewable electricity
35 delivered by an electrical corporation pursuant to subdivision (c)
36 shall pay the following:

37 (1) Applicable rates approved by the commission for
38 distribution, or distribution and transmission, or any transmission
39 rates as required under federal law.

1 (2) A standby charge, as defined in Section 2807, except that
2 no standby charge shall be imposed on the electrical generating
3 capacity or the kilowatthour production of renewable electricity
4 generated by a renewable electric generation facility that, if
5 operated by an eligible customer-generator pursuant to Section
6 2827, an eligible biogas digester customer-generator pursuant to
7 Section 2827.9, or eligible fuel cell customer-generator pursuant
8 to Section 2827.10, would be exempt from standby charges. The
9 commission shall adopt or maintain just and reasonable standby
10 charges that are based only upon assumptions that are supported
11 by factual data, and shall exclude any assumptions that forced
12 outages or other reductions in renewable electricity generation by
13 renewable electric generation facilities will occur simultaneously
14 on multiple systems, or during periods of peak electrical system
15 demand, or both.

16 (3) A surcharge to reimburse the Department of Water Resources
17 for all charges that would otherwise be imposed on the local public
18 agency by the commission to recover bond-related costs pursuant
19 to an agreement between the commission and the Department of
20 Water Resources pursuant to Section 80110 of the Water Code,
21 as well as the costs of the department equal to the share of the
22 department's estimated net unavoidable power purchase contract
23 costs attributable to the local public agency. The commission shall
24 ensure that the charges are nonbypassable.

25 (4) A departing load surcharge to reimburse the electrical
26 corporation that previously served the local public agency for both
27 of the following:

28 (A) The electrical corporation's unrecovered past
29 undercollections for electricity purchases, including any financing
30 costs, attributable to that local public agency, that the commission
31 lawfully determines may be recovered in rates.

32 (B) Any additional costs of the electrical corporation recoverable
33 in commission-approved rates, equal to the share of the electrical
34 corporation's estimated net unavoidable electricity purchase
35 contract costs attributable to the local public agency, as determined
36 by the commission.

37 (f) The commission shall ensure that the delivery of renewable
38 electricity by an electrical corporation pursuant to subdivision (c)
39 does not result in a shifting of costs to bundled service customers,
40 either immediately or over time.

1 (g) Every electrical corporation shall file with the commission
2 a standard tariff for the delivery of renewable electricity pursuant
3 to subdivision (c). Every electrical corporation shall make these
4 tariffs available to local public agencies that own and operate a
5 renewable electric generation facility, upon request. An electrical
6 corporation may make the terms of the tariff available to local
7 public agencies in the form of a standard contract subject to
8 commission approval.

9 (h) The environmental attributes associated with renewable
10 electricity generated by a local public agency at a renewable
11 electric generation facility shall remain the property of the local
12 public agency notwithstanding the transmission of the renewable
13 electricity by an electrical corporation pursuant to subdivision (c).

14 SEC. 2. 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.