

AMENDED IN ASSEMBLY MAY 8, 2008
AMENDED IN ASSEMBLY APRIL 8, 2008
AMENDED IN ASSEMBLY MARCH 25, 2008
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2863

Introduced by Assembly Member Leno

February 22, 2008

An act to amend ~~Section 218 of~~ *Sections 218 and 739.5 of, and to add Article 3 (commencing with Section 2868) to Chapter 9 of Part 2 of Division 1 of, the Public Utilities Code, relating to ~~public utilities~~ electricity.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2863, as amended, Leno. ~~Public utilities: electrical corporations. Independent solar energy producers: master-meter customers.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. An electrical corporation is defined as including every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others. *Existing law requires that, when gas or electric service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer charge each user at the same rate which would be applicable if the user were receiving gas or electricity directly from the gas or electric company. Existing law creates further*

requirements for master-meter customers and for the corporations which provide service to them.

This bill would require the master-meter customer to charge each user a rate not to exceed the rate that would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation.

~~This bill would additionally create an exception from the definition of an “electrical corporation,” if a corporation or person employs one or more photovoltaic generation systems for the generation of electricity for its own use or the use of its tenants, the use of, or sale to, not more than 2 other corporations or persons per generation system solely for use on the real property on which the electricity is generated in which case the sale price of the electricity shall not exceed the applicable tariff approved by the commission for the electrical corporation, or approved by the governing board of the local publicly owned electric utility, serving the real property, the use of, or sale to, an association of a common interest development solely for use by, or sale to, its members or their tenants, in which case, the sale price of the electricity shall not exceed the applicable tariff approved by the commission for the electrical corporation, or approved by the governing board of the local publicly owned electric utility, serving the real property, or sale or transmission to an electrical corporation or state or local public agency corporation” for an independent solar energy producer, as defined and meeting the requirements described below, employing one or more photovoltaic generation systems for the generation of electricity.~~

This bill would require an independent solar energy producer contracting for the sale of electricity or the lease of a generation system to a person or common interest development association for use in a residence to make certain disclosures to the buyer or lessee and to record a document that contains notice of the contract, as provided. The bill would require a master-meter customer of an electric utility who purchases electricity or leases a generation system from an independent solar energy producer, and who provides electric service to users who are tenants of a mobilehome park, apartment building, or similar residential complex, to charge each user of the electric service that is under a submetered system a rate for the solar generated electricity not to exceed the rate charged by the independent solar energy producer or the electric utility’s rate for an equivalent amount of electricity, whichever is lower.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 218 of the Public Utilities Code is
2 amended to read:

3 218. (a) “Electrical corporation” includes every corporation
4 or person owning, controlling, operating, or managing any electric
5 plant for compensation within this state, except where electricity
6 is generated on or distributed by the producer through private
7 property solely for its own use or the use of its tenants and not for
8 sale or transmission to others.

9 (b) “Electrical corporation” does not include a corporation or
10 person employing cogeneration technology or producing power
11 from other than a conventional power source for the generation of
12 electricity solely for any one or more of the following purposes:

13 (1) Its own use or the use of its tenants.

14 (2) The use of or sale to not more than two other corporations
15 or persons solely for use on the real property on which the
16 electricity is generated or on real property immediately adjacent
17 thereto, unless there is an intervening public street constituting the
18 boundary between the real property on which the electricity is
19 generated and the immediately adjacent property and one or more
20 of the following applies:

21 (A) The real property on which the electricity is generated and
22 the immediately adjacent real property is not under common
23 ownership or control, or that common ownership or control was
24 gained solely for purposes of sale of the electricity so generated
25 and not for other business purposes.

26 (B) The useful thermal output of the facility generating the
27 electricity is not used on the immediately adjacent property for
28 petroleum production or refining.

29 (C) The electricity furnished to the immediately adjacent
30 property is not utilized by a subsidiary or affiliate of the corporation
31 or person generating the electricity.

32 (3) Sale or transmission to an electrical corporation or state or
33 local public agency, but not for sale or transmission to others,
34 unless the corporation or person is otherwise an electrical
35 corporation.

1 (c) “Electrical corporation” does not include a corporation or
 2 person employing landfill gas technology for the generation of
 3 electricity for any one or more of the following purposes:

4 (1) Its own use or the use of not more than two of its tenants
 5 located on the real property on which the electricity is generated.

6 (2) The use of or sale to not more than two other corporations
 7 or persons solely for use on the real property *on which the*
 8 electricity is generated.

9 (3) Sale or transmission to an electrical corporation or state or
 10 local public agency.

11 (d) “Electrical corporation” does not include a corporation or
 12 person employing digester gas technology for the generation of
 13 electricity for any one or more of the following purposes:

14 (1) Its own use or the use of not more than two of its tenants
 15 located on the real property on which the electricity is generated.

16 (2) The use of or sale to not more than two other corporations
 17 or persons solely for use on the real property on which the
 18 electricity is generated.

19 (3) Sale or transmission to an electrical corporation or state or
 20 local public agency, if the sale or transmission of the electricity
 21 service to a retail customer is provided through the transmission
 22 system of the existing local publicly owned electric utility or
 23 electrical corporation of that retail customer.

24 (e) ~~“Electrical corporation” does not include a corporation or~~
 25 ~~person employing one or more photovoltaic generation systems~~
 26 ~~for the generation of electricity for any one or more of the~~
 27 ~~following purposes:~~

28 ~~(1) Its own use or the use of its tenants.~~

29 ~~(2) The use of, or sale to, not more than two other corporations~~
 30 ~~or persons per generation system solely for use on the real property~~
 31 ~~on which the electricity is generated, in which case, the sale price~~
 32 ~~of the electricity shall not exceed the applicable tariff approved~~
 33 ~~by the commission for the electrical corporation, or approved by~~
 34 ~~the governing board of the local publicly owned electric utility,~~
 35 ~~serving the real property.~~

36 ~~(3) The use of, or sale to, an association of a common interest~~
 37 ~~development, as defined in subdivision (c) of Section 1351 of the~~
 38 ~~Civil Code, solely for use by, or sale to, its members or their~~
 39 ~~tenants, in which case, the sale price of the electricity shall not~~
 40 ~~exceed the applicable tariff approved by the commission for the~~

1 electrical corporation, or approved by the governing board of the
2 local publicly owned electric utility, serving the real property.

3 ~~(4) Sale or transmission to an electrical corporation or state or~~
4 ~~local public agency.—~~ *an independent solar energy producer*
5 *employing one or more photovoltaic generation systems for the*
6 *generation of electricity pursuant to Article 3 (commencing with*
7 *Section 2868) of Chapter 9 of Part 2.*

8 (f) The amendments made to this section at the 1987 portion of
9 the 1987–88 Regular Session of the Legislature do not apply to
10 any corporation or person employing cogeneration technology or
11 producing power from other than a conventional power source for
12 the generation of electricity that physically produced electricity
13 prior to January 1, 1989, and furnished that electricity to
14 immediately adjacent real property for use thereon prior to January
15 1, 1989.

16 *SEC. 2. Section 739.5 of the Public Utilities Code is amended*
17 *to read:*

18 739.5. (a) The commission shall require that, whenever gas
19 or electric service, or both, is provided by a master-meter customer
20 to users who are tenants of a mobilehome park, apartment building,
21 or similar residential complex, the master-meter customer shall
22 charge each user of the service ~~at the same~~ *a rate not to exceed*
23 *the rate which that* would be applicable if the user were receiving
24 gas or electricity, or both, directly from the gas or electrical
25 corporation. The commission shall require the corporation
26 furnishing service to the master-meter customer to establish
27 uniform rates for master-meter service at a level ~~which that~~ will
28 provide a sufficient differential to cover the reasonable average
29 costs to master-meter customers of providing submeter service,
30 except that these costs shall not exceed the average cost that the
31 corporation would have incurred in providing comparable services
32 directly to the users of the service.

33 (b) Every master-meter customer of a gas or electrical
34 corporation subject to subdivision (a) who, on or after January 1,
35 1978, receives any rebate from the corporation shall distribute to,
36 or credit to the account of, each current user served by the
37 master-meter customer that portion of the rebate which the amount
38 of gas or electricity, or both, consumed by the user during the last
39 billing period bears to the total amount furnished by the corporation
40 to the master-meter customer during that period.

1 (c) An electrical or gas corporation furnishing service to a
2 master-meter customer shall furnish to each user of the service
3 within a submetered system every public safety customer service
4 ~~which~~ *that* it provides beyond the meter to its other residential
5 customers. The corporation shall furnish a list of those services to
6 the master-meter customer who shall post the list in a conspicuous
7 place accessible to all users. Every corporation shall provide these
8 public safety customer services to each user of electrical or gas
9 service under a submetered system without additional charge unless
10 the corporation has included the average cost of these services in
11 the rate differential provided to the master-meter customer on
12 January 1, 1984, in which case the commission shall deduct the
13 average cost of providing these public safety customer services
14 when approving rate differentials for master-meter customers.

15 (d) Every master-meter customer is responsible for maintenance
16 and repair of its submeter facilities beyond the master-meter, and
17 nothing in this section requires an electrical or gas corporation to
18 make repairs to or perform maintenance on the submeter system.

19 (e) Every master-meter customer shall provide an itemized
20 billing of charges for electricity or gas, or both, to each individual
21 user generally in accordance with the form and content of bills of
22 the corporation to its residential customers, including, but not
23 limited to, the opening and closing readings for the meter, and the
24 identification of all rates and quantities attributable to each block
25 in the applicable rate structure. The master-meter customer shall
26 also post, in a conspicuous place, the applicable prevailing
27 residential gas or electrical rate schedule, as published by the
28 corporation.

29 (f) The commission shall require that every electrical and gas
30 corporation shall notify each master-meter customer of its
31 responsibilities to its users under this section.

32 (g) The commission shall accept and respond to complaints
33 concerning the requirements of this section through the consumer
34 affairs branch, in addition to any other staff that the commission
35 deems necessary to assist the complainant. In responding to the
36 complaint, the commission shall consider the role that the office
37 of the county sealer in the complainant's county of residence may
38 have in helping to resolve the complaint and, where appropriate,
39 coordinate with that office.

1 SEC. 3. Article 3 (commencing with Section 2868) is added to
2 Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, to
3 read:

4
5 Article 3. Independent Solar Energy Producers
6

7 2868. The following definitions shall apply for purposes of this
8 article:

9 (a) "Association of a common interest development" means a
10 nonprofit corporation or unincorporated association created for
11 the purpose of managing a common interest development as defined
12 in subdivision (c) of Section 1351 of the Civil Code.

13 (b) "Electric utility" means an electrical corporation as defined
14 in Section 218, a local publicly owned electric utility as defined
15 in Section 9604, or an electrical cooperative as defined in Section
16 2776.

17 (c) "Generation system" means any configuration of
18 photovoltaic generation that has a single interconnection with the
19 electric utility transmission or distribution network.

20 (d) "Independent solar energy producer" means a corporation
21 or person employing one or more photovoltaic generation systems
22 for the generation of electricity for any one or more of the following
23 purposes:

24 (1) Its own use or the use of its tenants.

25 (2) The use of, or sale to, not more than two other corporations
26 or persons per generation system solely for use on the real property
27 on which the electricity is generated, or on real property
28 immediately adjacent thereto.

29 (3) The use of, or sale to, an association of a common interest
30 development solely for use by, or sale to, its members or their
31 tenants, and solely for use on the real property on which the
32 electricity is generated, or on real property immediately adjacent
33 thereto.

34 (4) Sale or transmission to an electrical corporation or a local
35 or state agency.

36 (e) "Real property" means a single parcel of land.

37 2869. (a) An independent solar energy producer contracting
38 for the sale of electricity or the lease of a generation system, to a
39 person, or an association of a common interest development, for

1 use in a residence shall include a disclosure to the buyer or lessee
2 that, at a minimum, includes all of the following:

3 (1) A good faith estimate of the kilowatthours to be delivered
4 by the generation system.

5 (2) A plain language explanation of the terms under which the
6 pricing will be calculated over the life of the contract and a good
7 faith estimate of the price per kilowatthour.

8 (3) A plain language explanation of operation and maintenance
9 responsibilities of the contract parties.

10 (4) A plain language explanation of the disposition of the
11 generation system at the end of the term of the contract.

12 (b) An independent solar energy producer contracting for the
13 sale of electricity or the lease of a generation system, to a person,
14 or an association of a common interest development, for use in a
15 residence shall record a notice of that contract against the title to
16 the real property on which the electricity is generated, and against
17 the title to any adjacent real property on which the electricity will
18 be used, in the office of the county recorder for the county in which
19 the real property is located. The notice shall include the name,
20 address, and telephone number of the independent solar energy
21 producer, identify whether the contract is a contract for the sale
22 of electricity or the lease of a generation system, and provide the
23 dates on which the contract commences and terminates.

24 (c) A master-meter customer of an electric utility who purchases
25 electricity or leases a generation system from an independent solar
26 energy producer, and who provides electric service to users who
27 are tenants of a mobilehome park, apartment building, or similar
28 residential complex, shall do both of the following:

29 (1) Charge each user of the electric service that is under a
30 submetered system a rate for the solar generated electricity not to
31 exceed the rate charged by the independent solar energy producer
32 or the electric utility's rate for an equivalent amount of electricity,
33 whichever is lower.

34 (2) Comply with the provisions of Section 739.5 or 12821.5,
35 and any rules set forth by an electric utility for master-meter
36 customers.

O