

AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1106

**Introduced by Assembly Member ~~Fuentes~~ *Members Fuentes and
Ruskin***

February 27, 2009

An act to add Section 399.21 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1106, as amended, Fuentes. Renewable electric generation facilities: feed-in tariffs.

Under existing law, the Public Utilities Commission ~~is vested with~~ *has* regulatory authority over public utilities, including electrical corporations, *as defined*. 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 (*RPS 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.~~

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 owned and operated by a retail customer of the electrical corporation. Existing law requires that the electric generation facility: (1) have an effective capacity of not more than 1.5 megawatts and be located on property owned or under the control of the customer; (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the RPS program. Existing law requires that the tariff provide for payment for every kilowatthour of electricity generated by an electric generation facility at a market price referent established by the commission pursuant to the program. Existing law requires the electrical corporation to make this tariff available to customers 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 500 megawatts, or the electrical corporation meets its proportionate share of the 500 megawatt limit based upon the ratio of its peak demand to total statewide peak demand of all electrical corporations. Existing law authorizes the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit. Existing law provides that the electricity generated by an electric generation facility counts toward the electrical corporation's renewables portfolio standard

and provides that the physical generating capacity counts toward meeting the electrical corporation's resource adequacy requirements.

This bill would require every electrical corporation to file with the commission a standard feed-in tariff for the electricity 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 and rules for interconnection to the electrical grid. 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~~ *first-come-first-served* basis, until the electrical corporation meets its renewables portfolio standard. 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 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 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 price. 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 a customer receiving electrical service pursuant to an alternative net metering program, as defined, to elect 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 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 RPS program and the reliable operation of the electrical 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.

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 399.21 is added to the Public Utilities
- 2 Code, to read:
- 3 399.21. (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 (b) As used in this section the following terms have the
- 7 following meanings:
- 8 (1) "Alternative net metering program" means any program that
- 9 requires an electrical corporation to purchase or credit electricity
- 10 generated by a subscriber pursuant to Article 3 (commencing with
- 11 Section 2821) of Chapter 7 of Part 2.
- 12 (2) "Renewable electric generation facility" means a facility for
- 13 the generation of electricity that is owned and operated by a
- 14 customer of an electrical corporation and that meets all of the
- 15 following criteria:
- 16 (A) Has an effective generating capacity of not more than 20
- 17 megawatts and is located on property owned or under the control
- 18 of the customer.
- 19 (B) Is interconnected and operates in parallel with the electric
- 20 transmission and distribution grid.

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

4 (D) Is an eligible renewable energy resource pursuant to this
5 article.

6 (c) Every electrical corporation shall file with the commission
7 a standard feed-in tariff for the electricity generated by a renewable
8 electric generation facility. The commission shall consult with the
9 Energy Commission and the Independent System Operator in
10 approving feed-in tariffs and rules for interconnection.

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

16 (e) Every electrical corporation shall make the feed-in tariff
17 available to customers that own and operate a renewable electric
18 generation facility within the service territory of the electrical
19 corporation, upon request, on a ~~first-come, first-served~~
20 *first-come-first-served* basis, until the electrical corporation meets
21 its renewables portfolio standard. An electrical corporation may
22 make the terms of the feed-in tariff available to customers in the
23 form of a standard contract subject to commission approval. An
24 electrical corporation shall only be required to offer service or
25 contracts under this section until that electrical corporation meets
26 its renewables portfolio standard, as determined by the commission.

27 (f) The commission shall ensure that a customer's eligibility to
28 receive service pursuant to the feed-in tariff is determined in
29 advance so that a customer can invest in a renewable electric
30 generation facility knowing that the customer will be eligible to
31 receive service pursuant to the feed-in tariff and the market price
32 that will be applicable to that customer. The commission may place
33 time limitations upon a customer for completion of the renewable
34 electric generation facility to remain eligible for the feed-in tariff
35 at the applicable market price. The commission may establish
36 reasonable operation and reliability standards for a renewable
37 electric generation facility to remain eligible for the feed-in tariff
38 at the applicable market price.

39 (g) Every kilowatthour of the electricity generated by the
40 renewable electric generation facility, including generation used

1 to offset the customer’s own usage of electricity, shall count toward
2 the electrical corporation’s renewables portfolio standard annual
3 procurement targets for purposes of paragraph (1) of subdivision
4 (b) of Section 399.15.

5 (h) The physical generating capacity of a renewable electric
6 generation facility shall count toward the electrical corporation’s
7 resource adequacy requirement for purposes of Section 380.

8 (i) (1) A customer receiving electrical service pursuant to an
9 alternative net metering program may elect to receive service
10 pursuant to the feed-in tariff filed by an electrical corporation
11 pursuant to this section.

12 (2) A customer that elects to receive electrical service pursuant
13 to the feed-in tariff filed by an electrical corporation pursuant to
14 this section waives any right that the customer otherwise has to
15 thereafter receive service pursuant to an alternative net metering
16 program.

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

22 ~~(k)~~

23 (j) The commission shall, in consultation with the Independent
24 System Operator, establish tariff provisions that facilitate both the
25 provisions of this section and the reliable operation of the grid.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

O