SENATE BILL No. 412

Introduced by Senator Kehoe

February 26, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as introduced, Kehoe. Electricity: self-generation incentive program.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources. The program is applicable to all eligible technologies, as determined by the PUC and subject to certain air emissions and efficiency standards, until January 1, 2008, except for solar technologies, which the PUC is required to administer separately, after January 1, 2007, pursuant to the California Solar Initiative. Commencing January 1, 2008, until January 1, 2012, existing law limits eligibility for nonsolar technologies to fuel cells and wind distributed generation technologies that meet or exceed emissions standards adopted by the State Air Resources Board (state board). Existing law authorizes the PUC, in administering the program, to include other ultraclean and low-emission distributed generation technologies, as defined.

Pursuant to decisions of the PUC, Pacific Gas and Electric Company, Southern California Edison, and Southern California Gas Company are the program administrators throughout their respective service territories and the Center for Sustainable Energy is the program administrator for the San Diego Gas and Electric Company service territory.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board (state board) to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990, to be achieved by 2020. Existing law prohibits any load-serving entity, as defined, and any local publicly owned electric utility, as defined, from entering into a long-term financial commitment, as defined, unless any baseload generation, as defined, complies with a greenhouse gases emission performance standard. Existing law requires the commission, in consultation with the Energy Commission and the state board, to establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities.

This bill would extend until January 1, 2013, the self-generation incentive program for nonsolar distributed generation resources and would limit the eligibility for incentives pursuant to the program to distributed generation resources that the commission determines will support the state's goals for the reduction of emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006. The bill would require that combined heat and power units meet certain efficiency and emissions requirements, including the greenhouse gases emission performance standard, to receive incentives.

The bill would require the PUC to ensure that distributed generation resources are made available in the program for all ratepayers. The bill would prohibit recovery of the costs of the program from ratepayers that participate in the California Alternative Rates for Energy (CARE) program. The bill would delete the authorization for the PUC, in administering the program, to include other ultraclean and low-emission distributed generation technologies.

(2) Existing law requires the Energy Commission, by November 1, 2008, and in consultation with the PUC and state board, to evaluate the costs and benefits of providing ratepayer subsidies for renewable and fossil fuel ultraclean and low-emission distributed generation.

This bill would delete that requirement.

(3) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the program that is extended under the provisions of this bill is within the act and a decision or order of the commission implements the program requirements, a violation of these provisions 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:

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~~ *2013*, 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)~~

(2) 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.~~

(b) Eligibility for incentives under the program shall be limited to distributed generation resources that the commission determines will support state goals for the reductions of emissions of greenhouse gases pursuant to the California Global Warming

Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(c) Eligibility for the ~~self-generation incentive program's level 3 incentive category shall be~~ *funding of any combustion-operated distributed generation projects using fossil fuel is* subject to *all of* the following conditions:

(1) ~~Commencing January 1, 2007, all combustion-operated distributed generation projects using fossil fuel shall meet an~~ *An* oxides of nitrogen (NO_x) 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_x 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) Combined heat and power units shall meet the greenhouse gases emissions performance standard established by the commission for a load-serving entity pursuant to Section 8341.

(4) The customer receiving incentives shall adequately maintain and service the combined heat and power units so that during operation, the system continues to meet or exceed the efficiency and emissions standards established pursuant to paragraphs (1), (2), and (3).

~~(3)~~

(5) Notwithstanding paragraph (1), a project that does not meet the applicable NO_x 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~~ *216.6*, 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.~~

(f) The commission shall ensure that distributed generation resources are made available in the program for all ratepayers.

(g) (1) In administering the self-generation incentive program, the commission shall provide an additional incentive of 20 percent from existing program funds for the installation of eligible distributed generation resources from a California supplier.

(2) "California supplier" as used in this subdivision means any sole proprietorship, partnership, joint venture, corporation, or other business entity that manufactures eligible distributed generation

resources in California and that meets either of the following criteria:

(A) The owners or policymaking officers are domiciled in California and the permanent principal office, or place of business from which the supplier's trade is directed or managed, is located in California.

(B) A business or corporation, including those owned by, or under common control of, a corporation, that meets all of the following criteria continuously during the five years prior to providing eligible distributed generation resources to a self-generation incentive program recipient:

(i) Owns and operates a manufacturing facility located in California that builds or manufactures eligible distributed generation resources.

(ii) Is licensed by the state to conduct business within the state.

(iii) Employs California residents for work within the state.

(3) For purposes of qualifying as a California supplier, a distribution or sales management office or facility does not qualify as a manufacturing facility.

(h) The costs of the program adopted and implemented pursuant to this section shall not be recovered from customers participating in the California Alternate Rates for Energy (CARE) program.

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

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