

AMENDED IN SENATE APRIL 28, 2009

SENATE BILL

No. 581

Introduced by Senator Leno

February 27, 2009

An act to amend Section 2828 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 581, as amended, Leno. Hetch Hetchy Water and Power: renewable generation.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes the City and County of San Francisco to elect to designate specific photovoltaic electricity generation facilities meeting specified conditions as Hetch Hetchy Water and Power (HHWP) at-site solar generation, as defined, and HHWP remote solar generation, as defined. Existing law requires that upon election and the filing and acceptance of an advice letter with the commission establishing rates, Pacific Gas and Electric Company (PG&E) is required on a monthly basis, to credit the City and County of San Francisco for certain electricity generated and delivered to the electric grid by HHWP at-site solar generation in accordance with specified rate criteria. Existing law additionally authorizes the City and County of San Francisco to elect to designate specific photovoltaic electricity generation facilities as HHWP remote solar generation to supply electricity to qualifying remote load by designating those facilities to be served by HHWP remote solar generation. Existing law requires that PG&E accept any electricity exported to the grid by HHWP remote solar generation, up to the amount of electricity contemporaneously

being used by the qualifying remote load, and treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote load. Existing law requires that where the separate or remote sites are outside the City and County of San Francisco, they be located within 20 miles of the City and County of San Francisco or within 20 miles of an HHWP remote solar generation facility.

This bill would authorize the City and County of San Francisco to elect to designate specific renewable electricity generation facilities, as defined, as HHWP at-site renewable generation and HHWP remote renewable generation. The bill would authorize the City and County of San Francisco to elect to designate specific renewable electricity generation facilities or a portion of specific renewable electricity generation facilities as HHWP remote renewable generation to supply electricity to qualifying remote load by designating those facilities to be served by HHWP remote renewable generation. The bill would require that PG&E accept any electricity exported to the grid by HHWP remote renewable generation, up to the amount of electricity being used during the corresponding time period by the qualifying remote load, and to treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote load. The bill would delete the existing requirement that where the separate or remote sites are outside the City and County of San Francisco, they be located within 20 miles of the City and County of San Francisco or within 20 miles of a HHWP remote renewable generation facility.

The bill would declare that, due to the special circumstances applicable only to HHWP renewable generation facilities, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

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

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

- 1 SECTION 1. Section 2828 of the Public Utilities Code is
- 2 amended to read:
- 3 2828. (a) As used in this section, the following terms have the
- 4 following meanings:
- 5 (1) "Appropriate TOU tariff" means the Time-of-Use tariff that
- 6 would be applicable to the City and County of San Francisco

1 account at the renewable electricity generation facility site if the
2 facility at the site were a Pacific Gas and Electric Company
3 bundled customer, as determined by Pacific Gas and Electric
4 Company.

5 (2) “Environmental attributes” associated with the Hetch Hetchy
6 Water and Power (HHWP) at-site renewable generation and HHWP
7 remote renewable generation include, but are not limited to, the
8 credits, benefits, emissions reductions, environmental air quality
9 credits, and emissions reduction credits, offsets, and allowances,
10 however entitled, resulting from the avoidance of the emissions
11 of any gas, chemical, or other substance attributable to the Hetch
12 Hetchy Water and Power renewable electricity generation facility
13 owned by the City and County of San Francisco.

14 (3) “HHWP at-site renewable generation” means the electricity
15 generated by renewable electricity generation facilities designated
16 by the City and County of San Francisco pursuant to subdivision
17 (b).

18 (4) “HHWP remote renewable generation” means the electricity
19 generated by renewable electricity generation facilities designated
20 by the City and County of San Francisco pursuant to subdivision
21 (h), to provide electricity to qualifying remote load.

22 (5) “Interconnection Agreement” means the 1987 agreement
23 between Pacific Gas and Electric Company and the City and
24 County of San Francisco, as filed with and accepted by the Federal
25 Energy Regulatory Commission (FERC), and as amended from
26 time to time with FERC approval, which provides for rates for
27 transmission, distribution, and sales of supplemental electricity to
28 the City and County of San Francisco. Nothing in this section shall
29 waive or modify the rights of parties under the Interconnection
30 Agreement or the jurisdiction of the FERC over rates set forth in
31 the Interconnection Agreement.

32 (6) “Qualifying remote load” means the electricity demand of
33 the City and County of San Francisco for load served under the
34 Interconnection Agreement, at sites that are separate from, and not
35 adjacent to, the sites where the renewable electricity generation
36 facility is located, and serviced through a meter or multiple meters
37 other than those serving the sites where the renewable electricity
38 generation facility is located. The separate or remote sites may be
39 designated by the City and County of San Francisco, both inside

1 and outside of the City and County of San Francisco. There is no
2 wattage limit on qualifying remote load.

3 (7) “Renewable electricity generation facility” means a facility
4 for the generation of electricity that satisfies both of the following
5 requirements:

6 (A) The facility ~~meets the technology and fuel source attributes~~
7 ~~required to be an eligible renewable energy resource pursuant to~~
8 ~~the California Renewable Portfolio Standards Program (Article~~
9 ~~16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of~~
10 ~~Division 1), but does not necessarily meet other eligibility attributes~~
11 ~~of that program relative to ownership, location, or date of operation.~~
12 *uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel*
13 *cells using renewable fuels, small hydroelectric generation of 30*
14 *megawatts or less, digester gas, municipal solid waste conversion,*
15 *landfill gas, ocean wave, ocean thermal, or tidal current, and any*
16 *additions or enhancements to the facility using that technology.*

17 (B) The facility is owned, or under lease or contract to, the City
18 and County of San Francisco for at least a five-year term and for
19 the full output of electricity from the facility.

20 (b) The City and County of San Francisco may elect to designate
21 specific renewable electricity generation facilities as HHWP at-site
22 renewable generation, if all of the following conditions are met:

23 (1) Total peak generating capacity does not exceed 15
24 megawatts.

25 (2) The renewable electricity generation facility utilizes a meter,
26 or multiple meters, capable of separately measuring electricity
27 flow in both directions. All meters shall provide “time-of-use”
28 measurement information. If the existing meter at the site of the
29 facility is not capable of providing time-of-use information or is
30 not capable of separately measuring total flow of energy in both
31 directions, the City and County of San Francisco is responsible
32 for all expenses involved in purchasing and installing a meter or
33 meters that are both capable of providing time-of-use information
34 and able to separately measure total electricity flow in both
35 directions.

36 (3) The amount of all electricity delivered to the electric grid
37 by the designated HHWP at-site renewable generation is the
38 property of Pacific Gas and Electric Company.

(4) The City and County of San Francisco does not sell electricity delivered to the electric grid from the designated HHWP at-site renewable generation to a third party.

(c) For each site of a renewable electricity generation facility that comprises the HHWP at-site renewable generation, Pacific Gas and Electric Company shall identify the appropriate TOU tariff for that site. Any electricity exported to the Pacific Gas and Electric Company grid at that site that is not generated from HHWP remote renewable generation pursuant to subdivision (h) shall, for each time-of-use period, result in a monetary credit to be applied monthly as a credit or offset against the invoice created pursuant to the Interconnection Agreement and shall be valued at the generation component of the appropriate TOU tariff. The commission shall determine if it is appropriate to increase the credit to reflect any additional value derived from the location or the environmental attributes of, the designated HHWP at-site renewable generation.

(d) Monthly charges and credit amounts for HHWP at-site renewable generation are interim and subject to an accounting true-up, consistent with commission policies and practices. The true-up shall be performed annually or upon the termination, for any reason, of the Interconnection Agreement. The true-up shall accomplish the following:

(1) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up equals or exceeds the total electricity exported to the grid by the HHWP at-site renewable generation facility at the site, the City and County of San Francisco is a net electricity consumer at that site. For any HHWP at-site renewable generation site where the City and County of San Francisco is a net electricity consumer, a credit or offset shall be applied to reduce the obligations of the City and County of San Francisco to an invoice prepared pursuant to the Interconnection Agreement. If there is no invoiced obligation to be reduced, there is no applicable credit.

(2) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up is less than the total electricity exported to the grid by the HHWP at-site renewable generation facility at the site, the City and County of San Francisco is a net electricity producer at that site. For any HHWP at-site renewable generation site where the City and County of San

1 San Francisco is a net electricity producer, the City and County of San
2 Francisco shall receive no credit or offset for the electricity
3 exported to the grid in excess of the electricity delivered to the site
4 from the grid. For any site where the City and County of San
5 Francisco is a net electricity producer, the City and County of San
6 Francisco shall receive a credit or offset up to the amount of
7 electricity delivered to the site from the grid. The credit or offset
8 shall be applied to reduce the obligations of the City and County
9 of San Francisco to an invoice prepared pursuant to the
10 Interconnection Agreement. If there is no invoiced obligation to
11 be reduced, there is no applicable credit or offset. Pacific Gas and
12 Electric Company shall use the last-in, first-out method to
13 determine what electricity delivered to the grid from the site will
14 not earn a credit or offset.

15 (e) Pursuant to this section, the offset to charges under the
16 Interconnection Agreement is the medium to convey credits earned
17 under this section. Nothing in this section shall be construed to
18 affect in any way the rights and obligations of the City and County
19 of San Francisco and Pacific Gas and Electric Company under the
20 Interconnection Agreement. If the Interconnection Agreement
21 terminates, the City and County of San Francisco and Pacific Gas
22 and Electric Company shall develop an alternative mechanism to
23 convey credits earned under this section for HHWP at-site
24 renewable generation and for HHWP remote renewable generation,
25 in a manner that accomplishes the same result as that accomplished
26 pursuant to the Interconnection Agreement.

27 (f) (1) Pacific Gas and Electric Company shall file an advice
28 letter with the commission, that complies with this section, not
29 later than 10 days after the City and County of San Francisco first
30 designates the specific renewable electricity generation facilities
31 that will comprise HHWP at-site renewable generation.

32 (2) The commission, within 30 days of the date of filing of the
33 advice letter, shall approve the advice letter or specify conforming
34 changes to be made by Pacific Gas and Electric Company to be
35 filed in an amended advice letter within 30 days.

36 (g) The City and County of San Francisco may terminate its
37 election pursuant to subdivisions (b), (c), (d), and (h), upon
38 providing Pacific Gas and Electric Company with a minimum of
39 60 days' written notice.

1 (h) (1) The City and County of San Francisco may elect to
2 designate specific renewable electricity generation facilities or a
3 portion of specific renewable electricity generation facilities as
4 HHWP remote renewable generation and may use HHWP remote
5 renewable generation to supply electricity to specific facilities
6 designated as qualifying remote load up to the amount of electricity
7 being used by the qualifying remote load.

8 (2) The City and County of San Francisco shall receive no credit
9 or offset for the electricity exported to the grid from HHWP remote
10 renewable generation, in excess of the electricity delivered from
11 the grid to qualifying remote load.

12 (3) Pacific Gas and Electric Company shall accept any electricity
13 exported to the grid as HHWP remote renewable generation, up
14 to the amount of electricity being used during the corresponding
15 time period by the qualifying remote load, and treat the electricity
16 accepted as behind the meter generation that offsets the electrical
17 usage of qualifying remote load. Additional rates may apply
18 pursuant to paragraph (6).

19 (4) The City and County of San Francisco shall be responsible
20 for scheduling the electricity exported to the grid from HHWP
21 remote renewable generation.

22 (5) Both HHWP remote renewable generation sites and
23 qualifying remote load sites shall have meters capable of measuring
24 exports and usage of electricity that will support determination of
25 credits or offsets pursuant to paragraph (2). The City and County
26 of San Francisco shall be responsible for the costs of the meters
27 required pursuant to this section.

28 (6) To compensate Pacific Gas and Electric Company for the
29 use of its facilities, the City and County of San Francisco shall pay
30 applicable distribution rates, transmission rates, or distribution and
31 transmission rates, at rate levels determined by the Interconnection
32 Agreement, for all energy delivered to qualifying remote load that
33 comes from HHWP remote renewable generation. When HHWP
34 remote renewable generation and the qualifying remote load it
35 serves are located within the City and County of San Francisco
36 and are interconnected at distribution voltage, the applicable rate
37 for delivery of energy from HHWP remote renewable generation
38 shall be reduced as negotiated pursuant to the Interconnection
39 Agreement.

1 (7) The appropriate regulatory agency shall ensure that the
2 delivery of electricity by HHWP remote renewable generation to
3 qualifying remote load, and the granting of offsets to the City and
4 County of San Francisco pursuant to this subdivision, do not result
5 in a shifting of costs to bundled service customers, either
6 immediately or over time.

7 (i) The interconnection of HHWP at-site renewable generation
8 and HHWP remote renewable generation will be accomplished
9 through one or more generator interconnection agreements pursuant
10 to applicable regulatory rules and generator interconnection
11 procedures.

12 (j) The City and County of San Francisco shall own the
13 environmental attributes associated with the electricity delivered
14 to the electric grid by HHWP at-site renewable generation and
15 HHWP remote renewable generation unless it contracts otherwise.

16 SEC. 2. The Legislature finds and declares that, because of the
17 unique circumstances applicable only to Hetch Hetchy Water and
18 Power renewable generation of electricity, a statute of general
19 applicability cannot be enacted within the meaning of subdivision
20 (b) of Section 16 of Article IV of the California Constitution.
21 Therefore, this special statute is necessary.