

AMENDED IN ASSEMBLY JUNE 17, 2009

AMENDED IN SENATE MAY 14, 2009

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:

2828. (a) As used in this section, the following terms have the following meanings:

(1) “Appropriate TOU tariff” means the Time-of-Use tariff that would be applicable to the City and County of San Francisco account at the renewable electricity generation facility site if the facility at the site were a Pacific Gas and Electric Company bundled customer, as determined by Pacific Gas and Electric Company.

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

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

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

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

(6) “Qualifying remote load” means the electricity demand of the City and County of San Francisco for load served under the Interconnection Agreement, at sites that are separate from, and not adjacent to, the sites where the renewable electricity generation facility is located, and serviced through a meter or multiple meters

1 other than those serving the sites where the renewable electricity
2 generation facility is located. The separate or remote sites may be
3 designated by the City and County of San Francisco, both inside
4 and outside of the City and County of San Francisco, but shall be
5 located within the electric service territory of Pacific Gas and
6 Electric Company. There is no wattage limit on qualifying remote
7 load.

8 (7) “Renewable electricity generation facility” means a facility
9 for the generation of electricity that satisfies both of the following
10 requirements:

11 (A) The facility meets the requirements for an “in-state
12 renewable electricity generation facility” specified in paragraph
13 (1) of subdivision ~~(a)~~ (b) of Section 25741 of the Public Resources
14 Code.

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

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

21 (1) Total peak generating capacity does not exceed 15
22 megawatts.

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

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

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

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

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

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

32 (2) If the total electricity delivered to the site by Pacific Gas
33 and Electric Company since the previous true-up is less than the
34 total electricity exported to the grid by the HHWP at-site renewable
35 generation facility at the site, the City and County of San Francisco
36 is a net electricity producer at that site. For any HHWP at-site
37 renewable generation site where the City and County of San
38 Francisco is a net electricity producer, the City and County of San
39 Francisco shall receive no credit or offset for the electricity
40 exported to the grid in excess of the electricity delivered to the site

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

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

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

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

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

37 (h) (1) The City and County of San Francisco may elect to
38 designate specific renewable electricity generation facilities or a
39 portion of specific renewable electricity generation facilities as
40 HHWP remote renewable generation and may use HHWP remote

1 renewable generation to supply electricity to specific facilities
2 designated as qualifying remote load up to the amount of electricity
3 being used by the qualifying remote load.

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

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

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

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

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

36 (7) The appropriate regulatory agency shall ensure that the
37 delivery of electricity by HHWP remote renewable generation to
38 qualifying remote load, and the granting of offsets to the City and
39 County of San Francisco pursuant to this subdivision, do not result

1 in a shifting of costs to bundled service customers, either
2 immediately or over time.

3 (i) Hetch Hetchy Water and Power shall reimburse Pacific Gas
4 and Electric Company for its reasonable study costs associated
5 with HHWP remote and at-site renewable generation to address
6 interconnection, consistent with applicable regulatory rules, and
7 impacts upon the electric system resulting from the HHWP remote
8 and at-site renewable generation. If the studies identify
9 improvements necessary for the protection of the Pacific Gas and
10 Electric Company electric system, for the protection of its
11 employees, or to ensure reliable delivery of the electricity generated
12 by the HHWP remote and at-site renewable generation facility to
13 qualifying remote load, Hetch Hetchy Water and Power shall pay
14 the reasonable costs of the improvements if it elects to designate
15 the HHWP remote and at-site renewable generation facility to
16 provide electricity for qualifying remote load.

17 (j) The interconnection of HHWP at-site renewable generation
18 and HHWP remote renewable generation will be accomplished
19 through one or more generator interconnection agreements pursuant
20 to applicable regulatory rules and generator interconnection
21 procedures.

22 (k) The City and County of San Francisco shall own the
23 environmental attributes associated with the electricity delivered
24 to the electric grid by HHWP at-site renewable generation and
25 HHWP remote renewable generation unless it contracts otherwise.

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