

Senate Bill No. 1247

CHAPTER 488

An act to amend Section 399.12.5 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2010. Filed with Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, Dutton. Renewable energy resources: hydroelectric generation facilities.

The existing California Renewables Portfolio Standard Program (RPS program) requires the Public Utilities Commission to implement annual procurement targets for the procurement of eligible renewable energy resources for all retail sellers, as defined, to achieve the targets and goals of the program. The existing definition of an eligible renewable energy resource includes certain small hydroelectric generation facilities, conduit hydroelectric facilities, and the incremental increase in electrical generation resulting from efficiency improvements (repowering) of existing larger hydroelectric facilities, subject to the condition that a new small or conduit hydroelectric facility or repowered facility not result in an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

This bill would provide that the new small or conduit hydroelectric facility or repowered facility that is an eligible renewable energy resource as of January 1, 2010, shall not lose eligibility if it causes a change in the volume or timing of streamflow, if those changes are required by license conditions approved, pursuant to the Federal Power Act, on or after January 1, 2010.

An additional requirement for eligibility for the incremental increase in electrical generation resulting from repowering of an existing larger hydroelectric facility is that the facility has been certified within the immediately preceding 15 years by the State Water Resources Control Board pursuant to the federal Clean Water Act or by a California regional water quality control board to which the state board has delegated authority.

This bill would adopt an alternative to that requirement for the Rock Creek Powerhouse hydroelectric generation facility.

The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 399.12.5 of the Public Utilities Code is amended to read:

399.12.5. (a) Notwithstanding subdivision (c) of Section 399.12, a small hydroelectric generation facility that satisfies the criteria for an eligible renewable energy resource pursuant to Section 399.12 shall not lose its eligibility if efficiency improvements undertaken after January 1, 2008, cause the generating capacity of the facility to exceed 30 megawatts, and the efficiency improvements do not result in an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow. The entire generating capacity of the facility shall be eligible.

(b) Notwithstanding subdivision (c) of Section 399.12, the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility, is electricity from an eligible renewable energy resource, without regard to the electrical output of the facility, if all of the following conditions are met:

(1) The incremental increase is the result of efficiency improvements from a retrofit that do not result in an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(2) The hydroelectric generation facility meets one of the following certification mechanisms:

(A) The hydroelectric generation facility has, within the immediately preceding 15 years, received certification from the State Water Resources Control Board pursuant to Section 401 of the federal Clean Water Act (33 U.S.C. Sec. 1341), or has received certification from a regional board to which the state board has delegated authority to issue certification, unless the facility is not subject to certification because there is no potential for discharge into waters of the United States.

(B) If the hydroelectric facility is not located in California, the certification pursuant to Section 401 of the federal Clean Water Act (33 U.S.C. Sec. 1341) may be received from the applicable state board or agency or from a regional board to which the state board has delegated authority to issue the certification.

(C) If the hydroelectric generation facility is the Rock Creek Powerhouse, Federal Energy Regulatory Commission Project Number 1962, the efficiency improvements have received any necessary incremental certification from the State Water Resources Control Board.

(3) The hydroelectric generation facility is owned by a retail seller or a local publicly owned electric utility, was operational prior to January 1, 2007, the efficiency improvements are initiated on or after January 1, 2008, the efficiency improvements are not the result of routine maintenance activities, as determined by the Energy Commission, and the efficiency improvements were not included in any resource plan sponsored by the facility owner prior to January 1, 2008.

(4) All of the incremental increase in electricity resulting from the efficiency improvements are demonstrated to result from a long-term

financial commitment by the retail seller or local publicly owned electric utility. For purposes of this paragraph, “long-term financial commitment” means either new ownership investment in the facility by the retail seller or local publicly owned electric utility or a new or renewed contract with a term of 10 or more years, which includes procurement of the incremental generation.

(c) The incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility are not eligible for supplemental energy payments pursuant to the Renewable Energy Resources Program (Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code), or a successor program.

(d) Notwithstanding subdivision (c) of Section 399.12 and subdivisions (a) and (b), a hydroelectric generation facility that is an eligible renewable energy resource pursuant to this article as of January 1, 2010, shall not lose its eligibility if the facility causes a change in the volume or timing of streamflow required by license conditions approved pursuant to the Federal Power Act (Chapter 12 (commencing with Section 791a) of Title 16 of the United States Code) on or after January 1, 2010.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address, as soon as possible, rising electricity rates that will slow the economic recovery of this state, it is necessary that this act take effect immediately.