

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 16, 2010

AMENDED IN SENATE APRIL 5, 2010

**SENATE BILL**

**No. 1435**

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**Introduced by Senators Padilla and Kehoe**

February 19, 2010

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An act to amend Section 216 of, and to add Chapter 3 (commencing with Section 4100) to Division 2 of, the Public Utilities Code, relating to electric vehicle charging stations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1435, as amended, Padilla. Electricity: electric and plug-in hybrid vehicles: charging stations.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. The existing Public Utilities Act requires every public utility to furnish and maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

This bill would provide that the ownership, control, operation, or management of a facility that supplies electricity only for use to power electric vehicles or plug-in hybrid vehicles does not make the corporation or person a public utility for purposes of the act.

(2) Existing law requires the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, the State Air Resources Board, electrical corporations, and the motor vehicle industry, to evaluate policies to develop infrastructure sufficient to overcome any barriers to the

widespread deployment and use of plug-in hybrid and electric vehicles and, by July 1, 2011, to adopt rules that address specified matters.

This bill would require the Public Utilities Commission to adopt rules that are applicable to each facility that supplies electricity for use to power electric vehicles or plug-in hybrid vehicles, which is located within the service territory of an electrical corporation, to achieve certain results.

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

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

1 SECTION 1. Section 216 of the Public Utilities Code is  
2 amended to read:

3 216. (a) "Public utility" includes every common carrier, toll  
4 bridge corporation, pipeline corporation, gas corporation, electrical  
5 corporation, telephone corporation, telegraph corporation, water  
6 corporation, sewer system corporation, and heat corporation, where  
7 the service is performed for, or the commodity is delivered to, the  
8 public or any portion thereof.

9 (b) Whenever any common carrier, toll bridge corporation,  
10 pipeline corporation, gas corporation, electrical corporation,  
11 telephone corporation, telegraph corporation, water corporation,  
12 sewer system corporation, or heat corporation performs a service  
13 for, or delivers a commodity to, the public or any portion thereof  
14 for which any compensation or payment whatsoever is received,  
15 that common carrier, toll bridge corporation, pipeline corporation,  
16 gas corporation, electrical corporation, telephone corporation,  
17 telegraph corporation, water corporation, sewer system corporation,  
18 or heat corporation, is a public utility subject to the jurisdiction,  
19 control, and regulation of the commission and the provisions of  
20 this part.

21 (c) When any person or corporation performs any service for,  
22 or delivers any commodity to, any person, private corporation,  
23 municipality, or other political subdivision of the state, that in turn  
24 either directly or indirectly, mediately or immediately, performs  
25 that service for, or delivers that commodity to, the public or any  
26 portion thereof, that person or corporation is a public utility subject  
27 to the jurisdiction, control, and regulation of the commission and  
28 the provisions of this part.

1 (d) Ownership or operation of a facility that employs  
2 cogeneration technology or produces power from other than a  
3 conventional power source or the ownership or operation of a  
4 facility which employs landfill gas technology does not make a  
5 corporation or person a public utility within the meaning of this  
6 section solely because of the ownership or operation of that facility.

7 (e) Any corporation or person engaged directly or indirectly in  
8 developing, producing, transmitting, distributing, delivering, or  
9 selling any form of heat derived from geothermal or solar resources  
10 or from cogeneration technology to any privately owned or publicly  
11 owned public utility, or to the public or any portion thereof, is not  
12 a public utility within the meaning of this section solely by reason  
13 of engaging in any of those activities.

14 (f) The ownership or operation of a facility that sells compressed  
15 natural gas at retail to the public for use only as a motor vehicle  
16 fuel, and the selling of compressed natural gas at retail from that  
17 facility to the public for use only as a motor vehicle fuel, does not  
18 make the corporation or person a public utility within the meaning  
19 of this section solely because of that ownership, operation, or sale.

20 (g) Ownership or operation of a facility that is an exempt  
21 wholesale generator, as defined in the Public Utility Holding  
22 Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make  
23 a corporation or person a public utility within the meaning of this  
24 section, solely due to the ownership or operation of that facility.

25 (h) The ownership, control, operation, or management of an  
26 electric plant used for direct transactions or participation directly  
27 or indirectly in direct transactions, as permitted by subdivision (b)  
28 of Section 365, sales into a market established and operated by the  
29 Independent System Operator or any other wholesale electricity  
30 market, or the use or sale as permitted under subdivisions (b) to  
31 (d), inclusive, of Section 218, shall not make a corporation or  
32 person a public utility within the meaning of this section solely  
33 because of that ownership, participation, or sale.

34 (i) The ownership, control, operation, or management of a  
35 facility that supplies electricity only for use to power electric  
36 vehicles or plug-in hybrid vehicles does not make the corporation  
37 or person a public utility within the meaning of this section solely  
38 because of that ownership, control, operation, or management.

39 SEC. 2. Chapter 3 (commencing with Section 4100) is added  
40 to Division 2 of the Public Utilities Code, to read:

## 1 CHAPTER 3. ELECTRICAL VEHICLE CHARGING STATIONS

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3 4100. The Legislature finds and declares all of the following:

4 (a) Within the next five years automakers are expected to release  
5 10 to 15 electric vehicle models into California's new car market.6 (b) Electric and plug-in hybrid vehicles can benefit the  
7 environment by reducing tailpipe emissions, but electrification of  
8 the transportation sector could result in the construction of more  
9 conventional powerplants using fossil fuels to generate electricity  
10 to meet increased peak demand loads resulting in increased  
11 powerplant emissions if the charging of those vehicles is not  
12 properly managed.13 (c) Electric and plug-in hybrid vehicle charging will place new  
14 demands on the state's electrical distribution and transmission  
15 system, but managed properly that demand can benefit ratepayers.16 (d) Third-party providers of electric and plug-in hybrid vehicle  
17 recharging systems will cumulatively provide charging services  
18 for tens of thousands of vehicles. These recharging systems, if not  
19 carefully integrated and controlled, have the potential to negatively  
20 impact electrical grid operations and system reliability.21 (e) A well-planned electric and plug-in hybrid vehicle charging  
22 infrastructure can shift a significant amount of charging to off-peak  
23 times, thereby avoiding the need to build new powerplants and  
24 increasing utilization of existing powerplants, encouraging  
25 customers to use electricity generated from eligible renewable  
26 energy resources to charge their vehicles, and promoting the most  
27 energy efficient electric and plug-in hybrid vehicles.28 (f) To meet these goals, the Public Utilities Commission should  
29 exercise limited jurisdiction over third-party electric and plug-in  
30 hybrid vehicle charging ~~providers to ensure~~ providers. "*Limited*  
31 *jurisdiction,*" as used in this subdivision, means ensuring effective  
32 load management, which will also result in improved  
33 environmental performance of the system, including integration  
34 with eligible renewable energy resources and reduced emissions  
35 of greenhouse gases.36 4105. The commission shall adopt rules that are applicable to  
37 each facility that supplies electricity for use to power electric  
38 vehicles or plug-in hybrid vehicles, which is located within the  
39 service territory of an electrical corporation, to achieve all of the  
40 following:

- 1 (a) Minimize negative impacts to the electrical distribution grid  
2 and maximize potential benefits to ratepayers through management  
3 of the grid.
- 4 (b) Shift a significant portion of electric and plug-in hybrid  
5 vehicle charging to off-peak periods, thereby avoiding the need to  
6 build new generating capacity and increasing the efficient use of  
7 existing generating capacity.
- 8 (c) Encourage the integration of intermittent eligible renewable  
9 energy resources into the electrical transmission and distribution  
10 grid by encouraging charging when those resources are more likely  
11 to be generating electricity.
- 12 (d) Promote use of the most energy efficient electric and plug-in  
13 hybrid vehicles.