

AMENDED IN ASSEMBLY APRIL 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 864

Introduced by Assembly Member Huffman

February 17, 2011

An act to amend Sections 2827 and 2827.8 of, and to repeal Section 2827.5 of, Section 379.6 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 864, as amended, Huffman. Electricity: ~~net energy metering self-generation incentive program.~~

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical 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, 2016, a self-generation incentive program (SGIP) for distributed generation resources and to separately administer solar technologies pursuant to the California Solar Initiative. Existing law limits eligibility for SGIP incentives to distributed energy resources that the PUC, in consultation with the State Air Resources Board (state board), determines will achieve reductions in emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006.

This bill would require that distributed energy resources with a nameplate generating capacity of up to 10 megawatts are eligible for incentives, but would limit the award of incentives to not more than 5 megawatts of that capacity.

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 are within the act and a decision or order of the commission would be required to implement the program requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a 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.

~~(1) Existing law requires every electric utility, as defined, to make available to an eligible customer-generator, as defined, a standard contract or tariff for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds 5% of the electric utility's aggregate customer peak demand. The existing definition of an eligible customer-generator limits the generating capacity of the solar or wind turbine electrical generating facility, or hybrid facility of both, used by the eligible customer-generator to one megawatt.~~

~~This bill would require that the standard contract or tariff for net energy metering be offered on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds 6% of the electric utility's aggregate customer peak demand and, until January 1, 2016, would reserve 1% of this limit for large commercial or industrial customer-generators, as defined. This bill would prohibit the electricity fed back to the electric grid by large commercial or industrial customer-generators from offsetting charges for transmission and distribution services. The bill would revise the definition of an eligible customer-generator to authorize generating facilities of up to 5 megawatts. The bill would make other conforming and clarifying changes.~~

~~(2) Existing law requires electric utilities to ensure that requests for an interconnection agreement from an eligible customer-generator are processed in a time period not to exceed 30 working days from the date the application is received.~~

~~This bill would require electric utilities to process these requests from eligible large commercial or industrial customer-generators in a time period not to exceed 90 days and would require the costs of required interconnection studies and upgrades to be paid by the large commercial or industrial customer-generator.~~

~~(3) Existing law makes legislative findings and declarations relative to the repeal of provisions of the net metering program for large customers:~~

~~This bill would repeal these findings and declarations:~~

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

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

1 SECTION 1. Section 379.6 of the Public Utilities Code is
2 amended to read:

3 379.6. (a) (1) The commission, in consultation with the Energy
4 Commission, may authorize the annual collection of not more than
5 the amount authorized for the self-generation incentive program
6 in the 2008 calendar year, through December 31, 2011. The
7 commission shall require the administration of the program for
8 distributed energy resources originally established pursuant to
9 Chapter 329 of the Statutes of 2000 until January 1, 2016. On
10 January 1, 2016, the commission shall provide repayment of all
11 unallocated funds collected pursuant to this section to reduce
12 ratepayer costs.

13 (2) The commission shall administer solar technologies
14 separately, pursuant to the California Solar Initiative adopted by
15 the commission in Decision 06-01-024.

16 (b) (1) Eligibility for incentives under the program shall be
17 limited to distributed energy resources that the commission, in
18 consultation with the State Air Resources Board, determines will
19 achieve reductions of greenhouse gas emissions pursuant to the
20 California Global Warming Solutions Act of 2006 (Division 25.5
21 (commencing with Section 38500) of the Health and Safety Code).

22 (2) *Distributed energy resources with a nameplate generating*
23 *capacity of up to 10 megawatts shall be eligible for incentives, but*
24 *incentives shall not be available for more than five megawatts of*
25 *that capacity.*

1 (c) Eligibility for the funding of any combustion-operated
2 distributed generation projects using fossil fuel is subject to all of
3 the following conditions:

4 (1) An oxides of nitrogen (NO_x) emissions rate standard of 0.07
5 pounds per megawatthour and a minimum efficiency of 60 percent,
6 or any other NO_x emissions rate and minimum efficiency standard
7 adopted by the State Air Resources Board. A minimum efficiency
8 of 60 percent shall be measured as useful energy output divided
9 by fuel input. The efficiency determination shall be based on 100
10 percent load.

11 (2) Combined heat and power units that meet the 60-percent
12 efficiency standard may take a credit to meet the applicable NO_x
13 emissions standard of 0.07 pounds per megawatthour. Credit shall
14 be at the rate of one megawatthour for each 3.4 million British
15 thermal units (Btus) of heat recovered.

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

21 (4) Notwithstanding paragraph (1), a project that does not meet
22 the applicable NO_x emissions standard is eligible if it meets both
23 of the following requirements:

24 (A) The project operates solely on waste gas. The commission
25 shall require a customer that applies for an incentive pursuant to
26 this paragraph to provide an affidavit or other form of proof, that
27 specifies that the project shall be operated solely on waste gas.
28 Incentives awarded pursuant to this paragraph shall be subject to
29 refund and shall be refunded by the recipient to the extent the
30 project does not operate on waste gas. As used in this paragraph,
31 “waste gas” means natural gas that is generated as a byproduct of
32 petroleum production operations and is not eligible for delivery
33 to the utility pipeline system.

34 (B) The air quality management district or air pollution control
35 district, in issuing a permit to operate the project, determines that
36 operation of the project will produce an onsite net air emissions
37 benefit, compared to permitted onsite emissions if the project does
38 not operate. The commission shall require the customer to secure
39 the permit prior to receiving incentives.

1 (d) In determining the eligibility for the self-generation incentive
2 program, minimum system efficiency shall be determined either
3 by calculating electrical and process heat efficiency as set forth in
4 Section 216.6, or by calculating overall electrical efficiency.

5 (e) In administering the self-generation incentive program, the
6 commission may adjust the amount of rebates and evaluate other
7 public policy interests, including, but not limited to, ratepayers,
8 and energy efficiency, peak load reduction, load management, and
9 environmental interests.

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

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

16 (2) “California supplier” as used in this subdivision means any
17 sole proprietorship, partnership, joint venture, corporation, or other
18 business entity that manufactures eligible distributed generation
19 resources in California and that meets either of the following
20 criteria:

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

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

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

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

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

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

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

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

10 ~~SECTION 1. Section 2827 of the Public Utilities Code is~~
 11 ~~amended to read:~~

12 ~~2827. (a) The Legislature finds and declares that a program~~
 13 ~~to provide net energy metering combined with net surplus~~
 14 ~~compensation, co-energy metering, and wind energy co-metering~~
 15 ~~for eligible customer-generators is one way to encourage substantial~~
 16 ~~private investment in renewable energy resources, stimulate in-state~~
 17 ~~economic growth, reduce demand for electricity during peak~~
 18 ~~consumption periods, help stabilize California's energy supply~~
 19 ~~infrastructure, enhance the continued diversification of California's~~
 20 ~~energy resource mix, reduce interconnection and administrative~~
 21 ~~costs for electricity suppliers, and encourage conservation and~~
 22 ~~efficiency.~~

23 ~~(b) As used in this section, the following terms have the~~
 24 ~~following meanings:~~

25 ~~(1) "Co-energy metering" means a program that is the same in~~
 26 ~~all other respects as a net energy metering program, except that~~
 27 ~~the local publicly owned electric utility has elected to apply a~~
 28 ~~generation-to-generation energy and time-of-use credit formula~~
 29 ~~as provided in subdivision (i):~~

30 ~~(2) "Electrical cooperative" means an electrical cooperative as~~
 31 ~~defined in Section 2776.~~

32 ~~(3) "Electric utility" means an electrical corporation, a local~~
 33 ~~publicly owned electric utility, or an electrical cooperative, or any~~
 34 ~~other entity, except an electric service provider, that offers electrical~~
 35 ~~service. This section shall not apply to a local publicly owned~~
 36 ~~electric utility that serves more than 750,000 customers and that~~
 37 ~~also conveys water to its customers.~~

38 ~~(4) "Eligible customer-generator" means a residential customer,~~
 39 ~~small commercial customer as defined in subdivision (h) of Section~~
 40 ~~331, or commercial, industrial, or agricultural customer of an~~

1 electric utility, who uses a solar or a wind turbine electrical
2 generating facility, or a hybrid system of both, with a capacity of
3 not more than five megawatts that is located on the customer's
4 owned, leased, or rented premises, and is interconnected and
5 operates in parallel with the electric grid, and is intended primarily
6 to offset part or all of the customer's own electrical requirements.

7 (5) "Large commercial or industrial customer-generator" means
8 an eligible customer-generator with one megawatt or more of
9 average monthly electrical demand.

10 (6) "Net energy metering" means measuring the difference
11 between the electricity supplied through the electric grid and the
12 electricity generated by an eligible customer-generator and fed
13 back to the electric grid over a 12-month period as described in
14 subdivisions (c) and (h).

15 (7) "Net surplus customer-generator" means an eligible
16 customer-generator that generates more electricity during a
17 12-month period than is supplied by the electric utility to the
18 eligible customer-generator during the same 12-month period.

19 (8) "Net surplus electricity" means all electricity generated by
20 an eligible customer-generator measured in kilowatthours over a
21 12-month period that exceeds the amount of electricity consumed
22 by that eligible customer-generator.

23 (9) "Net surplus electricity compensation" means a per
24 kilowatthour rate offered by the electric utility to the net surplus
25 customer-generator for net surplus electricity that is set by the
26 ratemaking authority pursuant to subdivision (h).

27 (10) "Ratemaking authority" means, for an electrical corporation
28 or electrical cooperative, the commission, and for a local publicly
29 owned electric utility, the local elected body responsible for setting
30 the rates of the local publicly owned utility.

31 (11) "Wind energy co-metering" means any wind energy project
32 greater than 50 kilowatts, but not exceeding five megawatts, where
33 the difference between the electricity supplied through the electric
34 grid and the electricity generated by an eligible customer-generator
35 and fed back to the electric grid over a 12-month period is as
36 described in subdivision (h). Wind energy co-metering shall be
37 accomplished pursuant to Section 2827.8.

38 (e) (1) Every electric utility shall develop a standard contract
39 or tariff providing for net energy metering, and shall make this
40 standard contract or tariff available to eligible customer-generators,

1 upon request, on a first-come-first-served basis until the time that
2 the total rated generating capacity used by eligible
3 customer-generators exceeds 6 percent of the electric utility's
4 aggregate customer peak demand. One percent, one-sixth of the
5 6-percent limit, shall be made available for large commercial or
6 industrial customer-generators, pursuant to paragraph (4). Net
7 energy metering shall be accomplished using a single meter capable
8 of registering the flow of electricity in two directions. An additional
9 meter or meters to monitor the flow of electricity in each direction
10 may be installed with the consent of the eligible
11 customer-generator, at the expense of the electric utility, and the
12 additional metering shall be used only to provide the information
13 necessary to accurately bill or credit the eligible customer-generator
14 pursuant to subdivision (h), or to collect solar or wind electric
15 generating system performance information for research purposes.
16 If the existing electrical meter of an eligible customer-generator
17 is not capable of measuring the flow of electricity in two directions,
18 the eligible customer-generator shall be responsible for all expenses
19 involved in purchasing and installing a meter that is able to measure
20 electricity flow in two directions. If an additional meter or meters
21 are installed, the net energy metering calculation shall yield a result
22 identical to that of a single meter. An eligible customer-generator
23 that is receiving service other than through the standard contract
24 or tariff may elect to receive service through the standard contract
25 or tariff until the electric utility reaches the generation limit set
26 forth in this paragraph. Once the generation limit is reached, only
27 eligible customer-generators that had previously elected to receive
28 service pursuant to the standard contract or tariff have a right to
29 continue to receive service pursuant to the standard contract or
30 tariff. Eligibility for net energy metering does not limit an eligible
31 customer-generator's eligibility for any other rebate, incentive, or
32 credit provided by the electric utility, or pursuant to any
33 governmental program, including rebates and incentives provided
34 pursuant to the California Solar Initiative.

35 (2) An electrical corporation shall include a provision in the net
36 energy metering contract or tariff requiring that any customer with
37 an existing electrical generating facility and meter who enters into
38 a new net energy metering contract shall provide an inspection
39 report to the electrical corporation, unless the electrical generating
40 facility and meter have been installed or inspected within the

1 previous three years. The inspection report shall be prepared by a
2 California-licensed contractor who is not the owner or operator of
3 the facility and meter. A California-licensed electrician shall
4 perform the inspection of the electrical portion of the facility and
5 meter.

6 ~~(3) (A) On an annual basis, beginning in 2003, every electric~~
7 ~~utility shall make available to the ratemaking authority information~~
8 ~~on the total rated generating capacity used by eligible~~
9 ~~customer-generators that are customers of that provider in the~~
10 ~~provider's service area and the net surplus electricity purchased~~
11 ~~by the electric utility pursuant to this section.~~

12 ~~(B) An electric service provider operating pursuant to Section~~
13 ~~394 shall make available to the ratemaking authority the~~
14 ~~information required by this paragraph for each eligible~~
15 ~~customer-generator that is their customer for each service area of~~
16 ~~an electric corporation, local publicly owned electrical utility, or~~
17 ~~electrical cooperative, in which the eligible customer-generator~~
18 ~~has net energy metering.~~

19 ~~(C) The ratemaking authority shall develop a process for making~~
20 ~~the information required by this paragraph available to electric~~
21 ~~utilities, and for using that information to determine when, pursuant~~
22 ~~to paragraphs (1) and (4), an electric utility is not obligated to~~
23 ~~provide net energy metering to additional eligible~~
24 ~~customer-generators in its service area.~~

25 ~~(4) (A) An electric utility is not obligated to provide net energy~~
26 ~~metering to additional eligible customer-generators in its service~~
27 ~~area when the combined total peak demand of all electricity used~~
28 ~~by eligible customer-generators served by all the electric utilities~~
29 ~~in that service area furnishing net energy metering to eligible~~
30 ~~customer-generators exceeds 6 percent of the aggregate customer~~
31 ~~peak demand of those electric utilities.~~

32 ~~(B) One percent, one-sixth of the 6-percent limit in subparagraph~~
33 ~~(A), shall be made available for large commercial or industrial~~
34 ~~customer-generators, and until January 1, 2016, shall be reserved~~
35 ~~solely for large commercial or industrial customer-generators. An~~
36 ~~electric utility is not obligated to provide net energy metering to~~
37 ~~additional large commercial or industrial customer-generators~~
38 ~~when the combined total peak demand of all electricity used by~~
39 ~~large commercial or industrial customer-generators exceeds 1~~
40 ~~percent of the aggregate customer peak demand in that service~~

1 area. An electric utility may voluntarily offer net energy metering
2 to additional large commercial or industrial customer-generators
3 once the 1-percent limitation of this subparagraph is reached, but
4 any generation by large commercial or industrial
5 customer-generators that exceeds 1 percent of the aggregate
6 customer peak demand shall not count toward the 6-percent
7 limitation in subparagraph (A), so that not less than five-sixths of
8 the 6-percent limitation is reserved for eligible customer-generators
9 that are not large commercial or industrial customer-generators.
10 For large commercial or industrial customer-generators, the
11 electricity fed back to the electric grid shall not offset charges for
12 transmission and distribution services.

13 (C) An electric utility may voluntarily offer net energy metering
14 to additional eligible customer-generators once the limits of this
15 paragraph are reached.

16 (d) Every electric utility shall make all necessary forms and
17 contracts for net energy metering and net surplus electricity
18 compensation service available for download from the Internet.

19 (e) (1) Every electric utility shall ensure that requests for
20 establishment of net energy metering and net surplus electricity
21 compensation are processed in a time period not exceeding that
22 for similarly situated customers requesting new electric service,
23 but not to exceed 30 working days from the date it receives a
24 completed application form for net energy metering service or net
25 surplus electricity compensation, including a signed interconnection
26 agreement from an eligible customer-generator and the electric
27 inspection clearance from the governmental authority having
28 jurisdiction.

29 (2) Every electric utility shall ensure that requests for an
30 interconnection agreement from an eligible customer-generator,
31 except a large commercial or industrial customer-generator, are
32 processed in a time period not to exceed 30 working days from
33 the date it receives a completed application form from the eligible
34 customer-generator for an interconnection agreement. For eligible
35 large commercial or industrial customer-generators, requests for
36 an interconnection agreement shall be processed in a time period
37 not to exceed 90 working days. To the extent that interconnection
38 studies and upgrades are required in order for large commercial
39 or industrial customer-generators to supply electricity to the electric

1 grid, the costs of these interconnection studies and upgrades shall
2 be paid by the large commercial or industrial customer-generator.

3 ~~(3) If an electric utility is unable to process a request within the~~
4 ~~allowable timeframe pursuant to paragraph (1) or (2), it shall notify~~
5 ~~the eligible customer-generator and the ratemaking authority of~~
6 ~~the reason for its inability to process the request and the expected~~
7 ~~completion date.~~

8 ~~(f) (1) If a customer participates in direct transactions pursuant~~
9 ~~to paragraph (1) of subdivision (b) of Section 365 with an electric~~
10 ~~service provider that does not provide distribution service for the~~
11 ~~direct transactions, the electric utility that provides distribution~~
12 ~~service for the eligible customer-generator is not obligated to~~
13 ~~provide net energy metering or net surplus electricity compensation~~
14 ~~to the customer.~~

15 ~~(2) If a customer participates in direct transactions pursuant to~~
16 ~~paragraph (1) of subdivision (b) of Section 365 with an electric~~
17 ~~service provider, and the customer is an eligible~~
18 ~~customer-generator, the electric utility that provides distribution~~
19 ~~service for the direct transactions may recover from the customer's~~
20 ~~electric service provider the incremental costs of metering and~~
21 ~~billing service related to net energy metering and net surplus~~
22 ~~electricity compensation in an amount set by the ratemaking~~
23 ~~authority.~~

24 ~~(g) Except for the time-variant kilowatthour pricing portion of~~
25 ~~any tariff adopted by the commission pursuant to paragraph (4) of~~
26 ~~subdivision (a) of Section 2851, each net energy metering contract~~
27 ~~or tariff shall be identical, with respect to rate structure, all retail~~
28 ~~rate components, and any monthly charges, to the contract or tariff~~
29 ~~to which the same customer would be assigned if the customer did~~
30 ~~not use an eligible solar or wind electrical generating facility,~~
31 ~~except that eligible customer-generators shall not be assessed~~
32 ~~standby charges on the electrical generating capacity or the~~
33 ~~kilowatthour production of an eligible solar or wind electrical~~
34 ~~generating facility. The charges for all retail rate components for~~
35 ~~eligible customer-generators shall be based exclusively on the~~
36 ~~customer-generator's net kilowatthour consumption over a~~
37 ~~12-month period, without regard to the eligible~~
38 ~~customer-generator's choice as to from whom it purchases~~
39 ~~electricity that is not self-generated. Any new or additional demand~~
40 ~~charge, standby charge, customer charge, minimum monthly~~

1 charge, interconnection charge, or any other charge that would
2 increase an eligible customer-generator's costs beyond those of
3 other customers who are not eligible customer-generators in the
4 rate class to which the eligible customer-generator would otherwise
5 be assigned if the customer did not own, lease, rent, or otherwise
6 operate an eligible solar or wind electrical generating facility is
7 contrary to the intent of this section, and shall not form a part of
8 net energy metering contracts or tariffs.

9 (h) For eligible customer-generators, the net energy metering
10 calculation shall be made by measuring the difference between
11 the electricity supplied to the eligible customer-generator and the
12 electricity generated by the eligible customer-generator and fed
13 back to the electric grid over a 12-month period. The following
14 rules shall apply to the annualized net metering calculation:

15 (1) The ~~eligible residential or small commercial~~
16 ~~customer-generator, at the end of each 12-month period following~~
17 ~~the date of final interconnection of the eligible~~
18 ~~customer-generator's system with an electric utility, and at each~~
19 ~~anniversary date thereafter, shall be billed for electricity used~~
20 ~~during that 12-month period. The electric utility shall determine~~
21 ~~if the eligible residential or small commercial customer-generator~~
22 ~~was a net consumer or a net surplus customer-generator during~~
23 ~~that period.~~

24 (2) ~~At the end of each 12-month period, where the electricity~~
25 ~~supplied during the period by the electric utility exceeds the~~
26 ~~electricity generated by the eligible residential or small commercial~~
27 ~~customer-generator during that same period, the eligible residential~~
28 ~~or small commercial customer-generator is a net electricity~~
29 ~~consumer and the electric utility shall be owed compensation for~~
30 ~~the eligible customer-generator's net kilowatthour consumption~~
31 ~~over that 12-month period. The compensation owed for the eligible~~
32 ~~residential or small commercial customer-generator's consumption~~
33 ~~shall be calculated as follows:~~

34 (A) ~~For all eligible customer-generators taking service under~~
35 ~~contracts or tariffs employing "baseline" and "over baseline" rates,~~
36 ~~any net monthly consumption of electricity shall be calculated~~
37 ~~according to the terms of the contract or tariff to which the same~~
38 ~~customer would be assigned to, or be eligible for, if the customer~~
39 ~~was not an eligible customer-generator. If those same~~
40 ~~customer-generators are net generators over a billing period, the~~

1 net kilowatthours generated shall be valued at the same price per
2 kilowatthour as the electric utility would charge for the baseline
3 quantity of electricity during that billing period, and if the number
4 of kilowatthours generated exceeds the baseline quantity, the excess
5 shall be valued at the same price per kilowatthour as the electric
6 utility would charge for electricity over the baseline quantity during
7 that billing period.

8 (B) For all eligible customer-generators taking service under
9 contracts or tariffs employing time-of-use rates, any net monthly
10 consumption of electricity shall be calculated according to the
11 terms of the contract or tariff to which the same customer would
12 be assigned, or be eligible for, if the customer was not an eligible
13 customer-generator. When those same customer-generators are
14 net generators during any discrete time-of-use period, the net
15 kilowatthours produced shall be valued at the same price per
16 kilowatthour as the electric utility would charge for retail
17 kilowatthour sales during that same time-of-use period. If the
18 eligible customer-generator's time-of-use electrical meter is unable
19 to measure the flow of electricity in two directions, paragraph (1)
20 of subdivision (c) shall apply.

21 (C) For all eligible residential and small commercial
22 customer-generators and for each billing period, the net balance
23 of moneys owed to the electric utility for net consumption of
24 electricity or credits owed to the eligible customer-generator for
25 net generation of electricity shall be carried forward as a monetary
26 value until the end of each 12-month period. For all eligible
27 commercial, industrial, and agricultural customer-generators, the
28 net balance of moneys owed shall be paid in accordance with the
29 electric utility's normal billing cycle, except that if the eligible
30 commercial, industrial, or agricultural customer-generator is a net
31 electricity producer over a normal billing cycle, any excess
32 kilowatthours generated during the billing cycle shall be carried
33 over to the following billing period as a monetary value, calculated
34 according to the procedures set forth in this section, and appear as
35 a credit on the eligible commercial, industrial, or agricultural
36 customer-generator's account, until the end of the annual period
37 when paragraph (3) shall apply.

38 (3) At the end of each 12-month period, where the electricity
39 generated by the eligible customer-generator during the 12-month
40 period exceeds the electricity supplied by the electric utility during

1 that same period, the eligible customer-generator is a net surplus
2 customer-generator and the electric utility, upon an affirmative
3 election by the eligible customer-generator, shall either (A) provide
4 net surplus electricity compensation for any net surplus electricity
5 generated during the prior 12-month period, or (B) allow the
6 eligible customer-generator to apply the net surplus electricity as
7 a credit for kilowatthours subsequently supplied by the electric
8 utility to the surplus customer-generator. For an eligible
9 customer-generator that does not affirmatively elect to receive
10 service pursuant to net surplus electricity compensation, the electric
11 utility shall retain any excess kilowatthours generated during the
12 prior 12-month period. The eligible customer-generator not
13 affirmatively electing to receive service pursuant to net surplus
14 electricity compensation shall not be owed any compensation for
15 the net surplus electricity unless the electric utility enters into a
16 purchase agreement with the eligible customer-generator for those
17 excess kilowatthours. By January 31, 2010, every electric utility
18 shall provide notice to eligible customer-generators that they are
19 eligible to receive net surplus electricity compensation for net
20 surplus electricity, that they must elect to receive net surplus
21 electricity compensation, and that the 12-month period commences
22 when the electric utility receives the eligible customer-generator's
23 election. For an electric utility that is an electrical corporation or
24 electrical cooperative, the commission may adopt requirements
25 for providing notice and the manner by which eligible
26 customer-generators may elect to receive net surplus electricity
27 compensation.

28 (4) (A) By January 1, 2011, the ratemaking authority shall
29 establish a net surplus electricity compensation valuation to
30 compensate the net surplus customer-generator for the value of
31 net surplus electricity generated by the net surplus
32 customer-generator. The commission shall establish the valuation
33 in a ratemaking proceeding. The ratemaking authority for a local
34 publicly owned electric utility shall establish the valuation in a
35 public proceeding. The net surplus electricity compensation
36 valuation shall be established so as to provide the net surplus
37 customer-generator just and reasonable compensation for the value
38 of net surplus electricity, while leaving other ratepayers unaffected.
39 The ratemaking authority shall determine whether the

1 compensation will include, where appropriate justification exists,
2 either or both of the following components:

- 3 (i) The value of the electricity itself.
 - 4 (ii) The value of the renewable attributes of the electricity.
- 5 (B) In establishing the rate pursuant to subparagraph (A), the
6 ratemaking authority shall ensure that the rate does not result in a
7 shifting of costs between solar customer-generators and other
8 bundled service customers.

9 (5) (A) Upon adoption of the net surplus electricity
10 compensation rate by the ratemaking authority, any renewable
11 energy credit, as defined in Section 399.12, for net surplus
12 electricity purchased by the electric utility shall belong to the
13 electric utility. Any renewable energy credit associated with
14 electricity generated by the eligible customer-generator that is
15 utilized by the eligible customer-generator shall remain the property
16 of the eligible customer-generator.

17 (B) Upon adoption of the net surplus electricity compensation
18 rate by the ratemaking authority, the net surplus electricity
19 purchased by the electric utility shall count toward the electric
20 utility's renewables portfolio standard annual procurement targets
21 for the purposes of paragraph (1) of subdivision (b) of Section
22 399.15, or for a local publicly owned electric utility, the renewables
23 portfolio standard annual procurement targets established pursuant
24 to Section 387.

25 (6) The electric utility shall provide every eligible residential
26 or small commercial customer-generator with net electricity
27 consumption and net surplus electricity generation information
28 with each regular bill. That information shall include the current
29 monetary balance owed the electric utility for net electricity
30 consumed, or the net surplus electricity generated, since the last
31 12-month period ended. Notwithstanding this subdivision, an
32 electric utility shall permit that customer to pay monthly for net
33 energy consumed.

34 (7) If an eligible residential or small commercial
35 customer-generator terminates the customer relationship with the
36 electric utility, the electric utility shall reconcile the eligible
37 customer-generator's consumption and production of electricity
38 during any part of a 12-month period following the last
39 reconciliation, according to the requirements set forth in this

1 subdivision, except that those requirements shall apply only to the
2 months since the most recent 12-month bill.

3 ~~(8) If an electric service provider or electric utility providing
4 net energy metering to a residential or small commercial
5 customer-generator ceases providing that electric service to that
6 customer during any 12-month period, and the customer-generator
7 enters into a new net energy metering contract or tariff with a new
8 electric service provider or electric utility, the 12-month period,
9 with respect to that new electric service provider or electric utility,
10 shall commence on the date on which the new electric service
11 provider or electric utility first supplies electric service to the
12 customer-generator.~~

13 ~~(i) Notwithstanding any other provisions of this section,
14 paragraphs (1), (2), and (3) shall apply to an eligible
15 customer-generator with a capacity of more than 10 kilowatts, but
16 not exceeding five megawatts, that receives electric service from
17 a local publicly owned electric utility that has elected to utilize a
18 co-energy metering program unless the local publicly owned
19 electric utility chooses to provide service for eligible
20 customer-generators with a capacity of more than 10 kilowatts in
21 accordance with subdivisions (g) and (h):~~

22 ~~(1) The eligible customer-generator shall be required to utilize
23 a meter, or multiple meters, capable of separately measuring
24 electricity flow in both directions. All meters shall provide
25 time-of-use measurements of electricity flow, and the customer
26 shall take service on a time-of-use rate schedule. If the existing
27 meter of the eligible customer-generator is not a time-of-use meter
28 or is not capable of measuring total flow of electricity in both
29 directions, the eligible customer-generator shall be responsible for
30 all expenses involved in purchasing and installing a meter that is
31 both time-of-use and able to measure total electricity flow in both
32 directions. This subdivision shall not restrict the ability of an
33 eligible customer-generator to utilize any economic incentives
34 provided by a governmental agency or an electric utility to reduce
35 its costs for purchasing and installing a time-of-use meter.~~

36 ~~(2) The consumption of electricity from the local publicly owned
37 electric utility shall result in a cost to the eligible
38 customer-generator to be priced in accordance with the standard
39 rate charged to the eligible customer-generator in accordance with
40 the rate structure to which the customer would be assigned if the~~

1 customer did not use an eligible solar or wind electrical generating
2 facility. The generation of electricity provided to the local publicly
3 owned electric utility shall result in a credit to the eligible
4 customer-generator and shall be priced in accordance with the
5 generation component, established under the applicable structure
6 to which the customer would be assigned if the customer did not
7 use an eligible solar or wind electrical generating facility.

8 (3) All costs and credits shall be shown on the eligible
9 customer-generator's bill for each billing period. In any months
10 in which the eligible customer-generator has been a net consumer
11 of electricity calculated on the basis of value determined pursuant
12 to paragraph (2), the customer-generator shall owe to the local
13 publicly owned electric utility the balance of electricity costs and
14 credits during that billing period. In any billing period in which
15 the eligible customer-generator has been a net producer of
16 electricity calculated on the basis of value determined pursuant to
17 paragraph (2), the local publicly owned electric utility shall owe
18 to the eligible customer-generator the balance of electricity costs
19 and credits during that billing period. Any net credit to the eligible
20 customer-generator of electricity costs may be carried forward to
21 subsequent billing periods, provided that a local publicly owned
22 electric utility may choose to carry the credit over as a kilowatt-hour
23 credit consistent with the provisions of any applicable contract or
24 tariff, including any differences attributable to the time of
25 generation of the electricity. At the end of each 12-month period,
26 the local publicly owned electric utility may reduce any net credit
27 due to the eligible customer-generator to zero.

28 (j) A solar or wind turbine electrical generating system, or a
29 hybrid system of both, used by an eligible customer-generator shall
30 meet all applicable safety and performance standards established
31 by the National Electrical Code, the Institute of Electrical and
32 Electronics Engineers, and accredited testing laboratories, including
33 Underwriters Laboratories and, where applicable, rules of the
34 commission regarding safety and reliability. A customer-generator
35 whose solar or wind turbine electrical generating system, or a
36 hybrid system of both, meets those standards and rules shall not
37 be required to install additional controls, perform or pay for
38 additional tests, or purchase additional liability insurance.

39 (k) If the commission determines that there are cost or revenue
40 obligations for an electrical corporation that may not be recovered

1 from customer-generators acting pursuant to this section, those
2 obligations shall remain within the customer class from which any
3 shortfall occurred and shall not be shifted to any other customer
4 class. Net energy metering and co-energy metering customers shall
5 not be exempt from the public goods charges imposed pursuant to
6 Article 7 (commencing with Section 381), Article 8 (commencing
7 with Section 385), or Article 15 (commencing with Section 399)
8 of Chapter 2.3 of Part 1. In its report to the Legislature, the
9 commission shall examine different methods to ensure that the
10 public goods charges remain nonbypassable.

11 (l) A net energy metering, co-energy metering, or wind energy
12 co-metering customer shall reimburse the Department of Water
13 Resources for all charges that would otherwise be imposed on the
14 customer by the commission to recover bond-related costs pursuant
15 to an agreement between the commission and the Department of
16 Water Resources pursuant to Section 80110 of the Water Code,
17 as well as the costs of the department equal to the share of the
18 department's estimated net unavoidable power purchase contract
19 costs attributable to the customer. The commission shall
20 incorporate the determination into an existing proceeding before
21 the commission, and shall ensure that the charges are
22 nonbypassable. Until the commission has made a determination
23 regarding the nonbypassable charges, net energy metering,
24 co-energy metering, and wind energy co-metering shall continue
25 under the same rules, procedures, terms, and conditions as were
26 applicable on December 31, 2002.

27 (m) In implementing the requirements of subdivisions (k) and
28 (l), an eligible customer-generator shall not be required to replace
29 its existing meter except as set forth in paragraph (1) of subdivision
30 (e), nor shall the electric utility require additional measurement of
31 usage beyond that which is necessary for customers in the same
32 rate class as the eligible customer-generator.

33 (n) It is the intent of the Legislature that the Treasurer
34 incorporate net energy metering, including net surplus electricity
35 compensation, co-energy metering, and wind energy co-metering
36 projects undertaken pursuant to this section as sustainable building
37 methods or distributive energy technologies for purposes of
38 evaluating low-income housing projects.

39 SEC. 2. Section 2827.5 of the Public Utilities Code is repealed.

1 SEC. 3.—Section 2827.8 of the Public Utilities Code is amended
2 to read:

3 ~~2827.8.—Notwithstanding any other provisions of this article,~~
4 ~~subdivisions (a) and (b) apply to an eligible customer-generator~~
5 ~~utilizing wind energy co-metering with a capacity of more than~~
6 ~~50 kilowatts, but not exceeding five megawatts, unless approved~~
7 ~~by the electric utility, as defined in Section 2827:~~

8 (a) ~~The eligible customer-generator shall be required to utilize~~
9 ~~a meter, or multiple meters, capable of separately measuring~~
10 ~~electricity flow in both directions. All meters shall provide~~
11 ~~“time-of-use” measurements of electricity flow, and the customer~~
12 ~~shall take service on a time-of-use rate schedule. If the existing~~
13 ~~meter of the eligible customer-generator is not a time-of-use meter~~
14 ~~or is not capable of measuring total flow of electricity in both~~
15 ~~directions, the eligible customer-generator is responsible for all~~
16 ~~expenses involved in purchasing and installing a meter that is both~~
17 ~~time-of-use and able to measure total electricity flow in both~~
18 ~~directions. This subdivision shall not restrict the ability of an~~
19 ~~eligible customer-generator to utilize any economic incentives~~
20 ~~provided by a governmental agency or the electric utility to reduce~~
21 ~~its costs for purchasing and installing a time-of-use meter.~~

22 (b) ~~The consumption of electricity from the electric utility for~~
23 ~~wind energy co-metering by an eligible customer-generator shall~~
24 ~~be priced in accordance with the standard rate charged to the~~
25 ~~eligible customer-generator in accordance with the rate structure~~
26 ~~to which the customer would be assigned if the customer did not~~
27 ~~use an eligible wind electrical generating facility. The generation~~
28 ~~of electricity provided to the electric utility shall result in a credit~~
29 ~~to the eligible customer-generator and shall be priced in accordance~~
30 ~~with the generation component, excluding surcharges to cover the~~
31 ~~purchase of power by the Department of Water Resources,~~
32 ~~established under the applicable structure to which the customer~~
33 ~~would be assigned if the customer did not use an eligible wind~~
34 ~~electrical generating facility.~~

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