

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1113

Introduced by Assembly Member Galgiani

February 18, 2011

~~An act to amend Section 33082 of the Food and Agricultural Code, relating to milk and milk products.~~ *An act to amend Section 2827.9 of the Public Utilities Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1113, as amended, Galgiani. ~~Milk and milk products.~~ *Energy: agricultural byproducts.*

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, electric utilities, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required to provide eligible biogas digester customer-generators, that commence operation by December 31, 2009, with net energy metering, as defined, under a pilot program.

This bill would replace the existing pilot program for eligible biogas digester customer-generators with a net energy metering program for eligible customer-generators, as defined, that use agricultural residues, animal wastes, or animal renderings to generate electricity and that meet certain requirements.

Existing law requires the Secretary of Food and Agriculture to supervise the operation of all approved milk inspection services, as specified, and the regulations which are adopted by him or her.

This bill would make a technical, nonsubstantive change to that provision.

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

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

1 SECTION 1. Section 2827.9 of the Public Utilities Code is
2 amended to read:

3 2827.9. (a) (1) The Legislature finds and declares that a ~~pilot~~
4 program to provide net energy metering for eligible ~~biogas digester~~
5 customer-generators would enhance the continued diversification
6 of California's energy resource mix and would encourage the
7 installation of livestock air emission controls that the State Air
8 Resources Board believes may produce multiple environmental
9 benefits.

10 (2) The Legislature further finds and declares that the net energy
11 metering ~~pilot~~ program authorized pursuant to this section for
12 eligible ~~biogas digester~~ customer-generators, which nets out
13 generation charges against generation charges on a time-of-use
14 basis, furthers the intent of Chapter 7 of the Statutes of 2001, First
15 Extraordinary Session, by facilitating the implementation of energy
16 efficiency programs in order to reduce consumption of energy,
17 reduce the costs associated with energy demand, and achieve a
18 reduction in peak electricity demand.

19 (b) As used in this section, the following definitions apply:

20 (1) "Electrical corporation" means an electrical corporation, as
21 defined in Section 218.

22 (2) (A) "Eligible ~~biogas digester~~ customer-generator" means
23 a customer of an electrical corporation that meets both of the
24 following criteria:

25 (i) Uses a ~~biogas digester~~ *an eligible* electrical generating facility
26 with a capacity of not more than one megawatt that is located on
27 or adjacent to the customer's owned, leased, or rented premises,
28 is interconnected and operates in parallel with the electric grid,
29 and is sized to offset part or all of the eligible ~~biogas digester~~
30 customer-generator's own electrical requirements.

1 (ii) Is the recipient of local, state, or federal funds, or who
2 self-finances pilot projects designed to encourage the development
3 of eligible ~~biogas digester~~ electrical generating facilities.

4 (B) Notwithstanding subparagraph (A), up to three large ~~biogas~~
5 ~~digester~~ electrical generating facilities with a generating capacity
6 of more than one megawatt and not more than 10 megawatts,
7 otherwise meeting the criteria of this section, shall be eligible for
8 participation in the ~~pilot~~ program.

9 (3) “Eligible ~~biogas digester~~ electrical generating facility” means
10 a generating facility used to produce electricity by either a manure
11 methane production project or as a byproduct of the anaerobic
12 digestion of biosolids and animal waste *any facility that produces*
13 *electricity using (A) agricultural residues, including orchard*
14 *trimmings and rice straw, (B) animal wastes, including manure*
15 *and poultry litter, or (C) animal renderings, that does not use*
16 *municipal solid waste and produces no hazardous waste or*
17 *discharge to surface or ground waters of the state.*

18 (4) “Net energy metering” means measuring the difference
19 between the electricity supplied through the electric grid and the
20 difference between the electricity generated by an eligible ~~biogas~~
21 ~~digester~~ customer-generator and fed back to the electric grid over
22 a 12-month period as described in subdivision (e). Net energy
23 metering shall be accomplished using a time-of-use meter capable
24 of registering the flow of electricity in two directions. If the existing
25 electrical meter of an eligible ~~biogas digester~~ customer-generator
26 is not capable of measuring the flow of electricity in two directions,
27 the eligible ~~biogas digester~~ customer-generator shall be responsible
28 for all expenses involved in purchasing and installing a meter that
29 is able to measure electricity flow in two directions. If an additional
30 meter or meters are installed, the net energy metering calculation
31 shall yield a result identical to that of a time-of-use meter.

32 (c) Every electrical corporation shall file with the commission
33 a standard tariff providing for net energy metering for eligible
34 ~~biogas digester~~ customer-generators, consistent with this section.
35 Every electrical corporation shall make this tariff available to
36 eligible ~~biogas digester~~ customer-generators upon request, on a
37 first-come-first-served basis, until the combined statewide
38 cumulative rated generating capacity used by the eligible ~~biogas~~
39 ~~digester~~ customer-generators in the service territories of the three
40 largest electrical corporations in the state reaches ~~50 megawatts~~.

1 ~~An eligible biogas digester~~ 70 megawatts for eligible electrical
2 generating facilities. An eligible customer-generator shall be
3 eligible for the tariff for the life of the eligible ~~biogas digester~~
4 electrical generating facility.

5 (d) Each net energy metering contract or tariff shall be identical,
6 with respect to rate structure, all retail rate components, and any
7 monthly charges, to the contract or tariff to which the same
8 customer would be assigned if the customer was not an eligible
9 ~~biogas digester~~ customer-generator, except as set forth in
10 subdivision (e). Any new or additional demand charge, standby
11 charge, customer charge, minimum monthly charge,
12 interconnection charge, or other charge that would increase an
13 eligible ~~biogas digester~~ customer-generator's costs beyond those
14 of other customers in the rate class to which the eligible ~~biogas~~
15 ~~digester~~ customer-generator would otherwise be assigned are
16 contrary to the intent of this legislation, and shall not form a part
17 of net energy metering tariffs.

18 (e) The net energy metering calculation shall be made by
19 measuring the difference between the electricity supplied to the
20 eligible customer-generator and the electricity generated by the
21 eligible customer-generator and fed back to the electric grid over
22 a 12-month period. The following rules shall apply to the
23 annualized metering calculation:

24 (1) The eligible ~~biogas digester~~ customer-generator shall, at the
25 end of each 12-month period following the date of final
26 interconnection of the eligible ~~biogas digester~~ customer-generator's
27 ~~system~~ electrical generating facility with an electrical corporation,
28 and at each anniversary date thereafter, be billed for electricity
29 used during that period. The electrical corporation shall determine
30 if the eligible ~~biogas digester~~ customer-generator was a net
31 consumer or a net producer of electricity during that period. For
32 purposes of determining if the ~~biogas digester~~ eligible
33 customer-generator was a net consumer or a net producer of
34 electricity during that period, the electrical corporation shall
35 aggregate the electrical load of ~~a dairy~~ an agricultural operation
36 under the same ownership, including, but not limited to, the
37 electrical load attributable to ~~milking operations, milk refrigeration~~
38 ~~operating the agricultural production facility~~, and water pumping
39 located on property adjacent or contiguous to the ~~dairy~~ property
40 on which the eligible electrical generating facility is located. Each

1 aggregated account shall be billed and measured according to a
2 time-of-use rate schedule.

3 (2) At the end of each 12-month period, where the electricity
4 supplied during the period by the electrical corporation exceeds
5 the electricity generated by the eligible ~~biogas digester~~
6 customer-generator during that same period, the eligible ~~biogas~~
7 ~~digester~~ customer-generator is a net electricity consumer and the
8 electrical corporation shall be owed compensation for the eligible
9 ~~biogas digester~~ customer-generator's net kilowatthour consumption
10 over that same period. The compensation owed for the eligible
11 ~~biogas digester~~ customer-generator's consumption shall be
12 calculated as follows:

13 (A) The generation charges for any net monthly consumption
14 of electricity shall be calculated according to the terms of the tariff
15 to which the same customer would be assigned to or be eligible
16 for if the customer was not an eligible ~~biogas digester~~
17 customer-generator. When those eligible ~~biogas digester~~
18 customer-generators are net generators during any discrete
19 time-of-use period, the net kilowatthours produced shall be valued
20 at the same price per kilowatthour as the electrical corporation
21 would charge for retail kilowatthour sales for generation, exclusive
22 of any surcharges, during that same time-of-use period. If the
23 eligible ~~biogas digester~~ customer-generator's time-of-use electrical
24 meter is unable to measure the flow of electricity in two directions,
25 paragraph (4) of subdivision (b) shall apply. All other charges,
26 other than generation charges, shall be calculated in accordance
27 with the eligible ~~biogas digester~~ customer-generator's applicable
28 tariff and based on the total kilowatthours delivered by the
29 electrical corporation to the eligible ~~biogas digester~~
30 customer-generator. To the extent that charges for transmission
31 and distribution services are recovered through demand charges
32 in any particular month, no standby reservation charges shall apply
33 in that monthly billing cycle.

34 (B) The net balance of moneys owed shall be paid in accordance
35 with the electrical corporation's normal billing cycle.

36 (3) At the end of each 12-month period, where the electricity
37 generated by the eligible ~~biogas digester~~ customer-generator during
38 the 12-month period exceeds the electricity supplied by the
39 electrical corporation during that same period, the eligible ~~biogas~~
40 ~~digester~~ customer-generator is a net electricity producer and the

1 electrical corporation shall retain any excess kilowatthours
2 generated during the prior 12-month period. The eligible ~~biogas~~
3 ~~digester~~ customer-generator shall not be owed any compensation
4 for those excess kilowatthours.

5 (4) If an eligible ~~biogas digester~~ customer-generator terminates
6 service with the electrical corporation, the electrical corporation
7 shall reconcile the eligible ~~biogas digester~~ customer-generator's
8 consumption and production of electricity during any 12-month
9 period.

10 (f) No ~~biogas digester~~ *eligible* electrical generating facility shall
11 be eligible for participation in the tariff established pursuant to
12 this section, that has not commenced operation by December 31,
13 2009. ~~A biogas~~ *An eligible digester* customer-generator shall be
14 eligible for the tariff established pursuant to this section, only for
15 the operating life of the eligible ~~biogas digester~~ electrical
16 generating facility.

17 (g) No ~~biogas digester~~ electrical generating facility that is subject
18 to the best available control technology (BACT) requirements shall
19 be eligible for participation in the tariff pursuant to this section
20 unless the ~~biogas digester~~ electrical generating facility has installed
21 the best available control technology as required by the ~~regional~~
22 *applicable* air pollution control district *or air quality management*
23 *district* at the time of installation to ensure the maximum feasible
24 reductions in toxic and criteria pollutants.

25 (h) On or before December 31, 2008, the commission, in
26 collaboration with the State Air Resources Board, shall report to
27 the Legislature all of the following information:

28 (1) The impact of the ~~pilot~~ program on emissions of air
29 pollutants.

30 (2) The impact of the ~~pilot~~ program on the reliability of the
31 transmission and distribution grid.

32 (3) The impact of the ~~pilot~~ program on ratepayers.

33 ~~SECTION 1. Section 33082 of the Food and Agricultural Code~~
34 ~~is amended to read:~~

35 ~~33082. The secretary shall supervise the operation of all~~
36 ~~approved milk inspection services in the enforcement of this~~
37 ~~division and the regulations which are adopted by him or her.~~

O