

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1186

Introduced by Assembly Member Skinner

February 18, 2011

An act to amend Section ~~372~~ 398.4 of the Public Utilities Code, relating to ~~electrical restructuring~~ *electricity*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1186, as amended, Skinner. ~~Electrical restructuring; cogeneration.~~
generation: source disclosures.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. ~~Provisions of the Public Utilities Act restructuring the electrical services industry state the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth.~~ *Existing law establishes a program under which retail suppliers of electricity disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric services.*

~~This bill would make nonsubstantive, technical changes to the policy of the state relative to cogeneration~~ *require that usage of natural gas be separately disclosed: (1) when it is used for conventional powerplant and peaker plant generation, and (2) when it is used for combined heat and power system generation.*

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 398.4 of the Public Utilities Code is
2 amended to read:

3 398.4. (a) Every retail supplier that makes an offering to sell
4 electricity that is consumed in California shall disclose its
5 electricity sources for the previous calendar year.

6 (b) The disclosures required by this section shall be made to
7 potential end-use consumers in all product-specific written
8 promotional materials that are distributed to consumers by either
9 printed or electronic means, including the retail supplier’s Internet
10 Web site, if one exists, except that advertisements and notices in
11 general circulation media shall not be subject to this requirement.

12 (c) The disclosures required by this section shall be made
13 annually to end-use consumers of the offered electricity. The annual
14 disclosure shall be made by the end of the first complete billing
15 cycle for the third quarter of the year, and shall be consistent with
16 information provided to the Energy Commission pursuant to
17 Section 398.5.

18 (d) The disclosures required by this section shall be made
19 separately for each offering made by the retail supplier.

20 (e) On or before January 1, 1998, the Energy Commission shall
21 specify guidelines for the format and means for disclosure required
22 by Section 398.3 and this section, based on the requirements of
23 this article and subject to public hearing.

24 (f) The costs of making the disclosures required by this section
25 shall be considered to be generation related.

26 (g) The disclosures required by this section shall comply with
27 the following:

28 (1) A retail supplier’s disclosure of its electricity sources shall
29 be expressed as a percentage of annual sales derived from each of
30 the following categories:

- 31 (A) Unspecified sources of electricity.
- 32 (B) Specific purchases.

33 (2) A retail supplier’s disclosure of its electricity sources shall
34 also separately identify total California system electricity, which
35 is the sum of all in-state generation and net electricity imports by
36 fuel type.

1 (h) Each of the categories specified in subdivision (g) shall be
2 additionally identified as a percentage of annual sales that is
3 derived from the following fuels or sources of energy:

4 (1) Coal.

5 (2) Large hydroelectric (greater than 30 megawatts).

6 (3) (A) Natural gas *used for conventional powerplant and*
7 *peaker plant`generation.*

8 (B) *Natural gas used for combined heat and power system*
9 *generation.*

10 (4) Nuclear.

11 (5) Eligible renewable energy resources pursuant to the
12 California Renewables Portfolio Standard Program (Article 16
13 (commencing with Section 399.11)), including any of the
14 following:

15 (A) Biomass and biowaste.

16 (B) Geothermal.

17 (C) Eligible hydroelectric.

18 (D) Solar.

19 (E) Wind.

20 (6) Other categories as determined by the Energy Commission.

21 (i) All electricity sources disclosed as specific purchases shall
22 meet the requirements of subdivision (c) of Section 398.2.

23 (j) Specific purchases identified pursuant to this section shall
24 be from sources connected to the Western Electricity Coordinating
25 Council interconnected grid.

26 (k) Compliance with this section by a local publicly owned
27 electric utility shall constitute compliance with paragraph (2) of
28 subdivision (b) of Section 387.

29 (l) The provisions of this section shall not apply to generators
30 providing electric service onsite, under an over-the-fence
31 transaction as described in Section 218, or to an affiliate or
32 affiliates, as defined in subdivision (a) of Section 372.

33 ~~SECTION 1. Section 372 of the Public Utilities Code is~~
34 ~~amended to read:~~

35 ~~372. (a) It is the policy of the state to encourage and support~~
36 ~~the development of cogeneration as an efficient, environmentally~~
37 ~~beneficial, competitive energy resource that will enhance the~~
38 ~~reliability of local generation supply, and promote local business~~
39 ~~growth. Subject to the specific conditions provided in this section,~~
40 ~~the commission shall determine the applicability to customers of~~

1 uneconomic costs as specified in Sections 367, 368, 375, and 376.
2 Consistent with this state policy, the commission shall provide
3 that these costs shall not apply to any of the following:

4 (1) ~~To load served onsite or under an over-the-fence arrangement~~
5 ~~by a nonmobile self-cogeneration or cogeneration facility that was~~
6 ~~operational on or before December 20, 1995, or by increases in~~
7 ~~the capacity of a facility to the extent that the increased capacity~~
8 ~~was constructed by an entity holding an ownership interest in or~~
9 ~~operating the facility and does not exceed 120 percent of the~~
10 ~~installed capacity as of December 20, 1995, provided that prior to~~
11 ~~June 30, 2000, the costs shall apply to over-the-fence arrangements~~
12 ~~entered into after December 20, 1995, between unaffiliated parties.~~
13 ~~For the purposes of this subdivision, “affiliated” means any person~~
14 ~~or entity that directly, or indirectly through one or more~~
15 ~~intermediaries, controls, is controlled by, or is under common~~
16 ~~control with another specified entity. “Control” means either of~~
17 ~~the following:~~

18 (A) ~~The possession, directly or indirectly, of the power to direct~~
19 ~~or to cause the direction of the management or policies of a person~~
20 ~~or entity, whether through an ownership, beneficial, contractual,~~
21 ~~or equitable interest.~~

22 (B) ~~Direct or indirect ownership of at least 25 percent of an~~
23 ~~entity, whether through an ownership, beneficial, or equitable~~
24 ~~interest.~~

25 (2) ~~To load served by onsite or under an over-the-fence~~
26 ~~arrangement by a nonmobile self-cogeneration or cogeneration~~
27 ~~facility for which the customer was committed to construction as~~
28 ~~of December 20, 1995, provided that the facility was substantially~~
29 ~~operational on or before January 1, 1998, or by increases in the~~
30 ~~capacity of a facility to the extent that the increased capacity was~~
31 ~~constructed by an entity holding an ownership interest in or~~
32 ~~operating the facility and does not exceed 120 percent of the~~
33 ~~installed capacity as of January 1, 1998, provided that prior to June~~
34 ~~30, 2000, the costs shall apply to over-the-fence arrangements~~
35 ~~entered into after December 20, 1995, between unaffiliated parties.~~

36 (3) ~~To load served by existing, new, or portable emergency~~
37 ~~generation equipment used to serve the customer’s load~~
38 ~~requirements during periods when utility service is unavailable,~~
39 ~~provided the emergency generation is not operated in parallel with~~
40 ~~the integrated electric grid, except on a momentary parallel basis.~~

1 ~~(4) After June 30, 2000, to any load served onsite or under an~~
2 ~~over-the-fence arrangement by any nonmobile self-cogeneration~~
3 ~~or cogeneration facility.~~

4 ~~(b) Further, consistent with state policy, with respect to~~
5 ~~self-cogeneration or cogeneration deferral agreements, the~~
6 ~~commission shall do the following:~~

7 ~~(1) Provide that a utility shall execute a final self-cogeneration~~
8 ~~or cogeneration deferral agreement with any customer that, on or~~
9 ~~before December 20, 1995, had executed a letter of intent (or~~
10 ~~similar documentation) to enter into the agreement with the utility,~~
11 ~~provided that the final agreement shall be consistent with the terms~~
12 ~~and conditions set forth in the letter of intent and the commission~~
13 ~~shall review and approve the final agreement.~~

14 ~~(2) Provide that a customer that holds a self-cogeneration or~~
15 ~~cogeneration deferral agreement that was in place on or before~~
16 ~~December 20, 1995, or that was executed pursuant to paragraph~~
17 ~~(1) in the event the agreement expires, or is terminated, may do~~
18 ~~any of the following:~~

19 ~~(A) Continue through December 31, 2001, to receive utility~~
20 ~~service at the rate and under terms and conditions applicable to~~
21 ~~the customer under the deferral agreement that, as executed,~~
22 ~~includes an allocation of uneconomic costs consistent with~~
23 ~~subdivision (e) of Section 367.~~

24 ~~(B) Engage in a direct transaction for the purchase of electricity~~
25 ~~and pay uneconomic costs consistent with Sections 367, 368, 375,~~
26 ~~and 376.~~

27 ~~(C) Construct a self-cogeneration or cogeneration facility of~~
28 ~~approximately the same capacity as the facility previously deferred,~~
29 ~~provided that the costs provided in Sections 367, 368, 375, and~~
30 ~~376 shall apply consistent with subdivision (e) of Section 367,~~
31 ~~unless otherwise authorized by the commission pursuant to~~
32 ~~subdivision (e).~~

33 ~~(3) Subject to the firewall described in subdivision (e) of Section~~
34 ~~367, provide that the ratemaking treatment for self-cogeneration~~
35 ~~or cogeneration deferral agreements executed prior to December~~
36 ~~20, 1995, or executed pursuant to paragraph (1) shall be consistent~~
37 ~~with the ratemaking treatment for the contracts approved before~~
38 ~~January 1995.~~

1 ~~(e) The commission shall authorize, within 60 days of the receipt~~
2 ~~of a joint application from the serving utility and one or more~~
3 ~~interested parties, applicability conditions as follows:~~

4 ~~(1) The costs identified in Sections 367, 368, 375, and 376 shall~~
5 ~~not, prior to June 30, 2000, apply to load served onsite by a~~
6 ~~nonmobile self-cogeneration or cogeneration facility that became~~
7 ~~operational on or after December 20, 1995.~~

8 ~~(2) The costs identified in Sections 367, 368, 375, and 376 shall~~
9 ~~not, prior to June 30, 2000, apply to any load served under~~
10 ~~over-the-fence arrangements entered into after December 20, 1995,~~
11 ~~between unaffiliated entities.~~

12 ~~(d) For the purposes of this subdivision, all onsite or~~
13 ~~over-the-fence arrangements shall be consistent with Section 218~~
14 ~~as it existed on December 20, 1995.~~

15 ~~(e) To facilitate the development of new microcogeneration~~
16 ~~applications, electrical corporations may apply to the commission~~
17 ~~for a financing order to finance the transition costs to be recovered~~
18 ~~from customers employing the applications.~~

19 ~~(f) To encourage the continued development, installation, and~~
20 ~~interconnection of clean and efficient self-generation and~~
21 ~~cogeneration resources, to improve system reliability for consumers~~
22 ~~by retaining existing generation and encouraging new generation~~
23 ~~to connect to the electric grid, and to increase self-sufficiency of~~
24 ~~consumers of electricity through the deployment of self-generation~~
25 ~~and cogeneration, both of the following shall occur:~~

26 ~~(1) The commission and the Electricity Oversight Board shall~~
27 ~~determine if any policy or action undertaken by the Independent~~
28 ~~System Operator, directly or indirectly, unreasonably discourages~~
29 ~~the connection of existing self-generation or cogeneration or new~~
30 ~~self-generation or cogeneration to the grid.~~

31 ~~(2) If the commission and the Electricity Oversight Board find~~
32 ~~that any policy or action of the Independent System Operator~~
33 ~~unreasonably discourages the connection of existing self-generation~~
34 ~~or cogeneration or new self-generation or cogeneration to the grid,~~
35 ~~the commission and the Electricity Oversight Board shall undertake~~
36 ~~all necessary efforts to revise, mitigate, or eliminate that policy or~~
37 ~~action of the Independent System Operator.~~