

ASSEMBLY BILL

No. 2165

**Introduced by Assembly Member Hill
(Coauthor: Assembly Member Roger Hernández)**

February 23, 2012

An act to amend Section 2827.10 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2165, as introduced, Hill. Net energy metering: eligible fuel cell customer-generators.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law, relative to private energy producers, requires every electrical corporation to make available to an eligible fuel cell customer-generator, as defined, a standard contract or tariff for net energy metering on a first-come-first-served basis until the total cumulative rated generating capacity used by the eligible fuel cell customer-generators equals 45 megawatts within the service territory of the electrical corporation, for an electrical corporation with a peak demand above 10,000 megawatts, or equals 22.5 megawatts within the service territory of the electrical corporation, for an electrical corporation with a peak demand of 10,000 megawatts or below. Existing law additionally limits the combined statewide cumulative rated generating capacity used by the eligible fuel cell customer-generators in the service territories of all electrical corporations in the state to not more than 112.5 megawatts.

This bill would revise the definition of an eligible fuel-cell customer-generator to require that the customer be physically located

within the service territory of the electrical corporation and receive bundled service, distribution service, or transmission service from the electrical corporation. In place of the existing maximum megawatt limitations upon an electrical corporation’s obligation to offer the tariff, the bill would require the electrical corporation to make the tariff available until the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff reaches 1 percent of the aggregate customer peak demand for the electrical corporation’s service territory.

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 bill expands the duties of an electrical corporation in offering net energy metering and an order of the commission would be required to implement these requirements, the bill 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.

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

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

- 1 SECTION 1. Section 2827.10 of the Public Utilities Code is
- 2 amended to read:
- 3 2827.10. (a) As used in this section, the following terms have
- 4 the following meanings:
- 5 (1) “Electrical corporation” means an electrical corporation, as
- 6 defined in Section 218.
- 7 (2) “Eligible fuel cell electrical generating facility” means a
- 8 facility that includes the following:
- 9 (A) Integrated powerplant systems containing a stack, tubular
- 10 array, or other functionally similar configuration used to
- 11 electrochemically convert fuel to electric energy.
- 12 (B) An inverter and fuel processing system where necessary.
- 13 (C) Other plant equipment, including heat recovery equipment,
- 14 necessary to support the plant’s operation or its energy conversion.

1 (3) (A) “Eligible fuel cell customer-generator” means a
2 customer of an electrical corporation that meets all the following
3 criteria:

4 ~~(A)~~

5 (i) Uses a fuel cell electrical generating facility with a capacity
6 of not more than one megawatt that is located on or adjacent to
7 the customer’s owned, leased, or rented premises, is interconnected
8 and operates in parallel with the electric grid while the grid is
9 operational or in a grid independent mode when the grid is
10 nonoperational, and is sized to offset part or all of the eligible fuel
11 cell customer-generator’s own electrical requirements.

12 ~~(B)~~

13 (ii) Is the recipient of local, state, or federal funds, or who
14 self-finances projects designed to encourage the development of
15 eligible fuel cell electrical generating facilities.

16 ~~(C)~~

17 (iii) Uses technology the commission has determined will
18 achieve reductions in emissions of greenhouse gases pursuant to
19 subdivision (b), and meets the emission requirements for eligibility
20 for funding set forth in subdivision (c), of Section 379.6.

21 (B) *For purposes of this paragraph, a person or entity is a*
22 *customer of the electrical corporation if the customer is physically*
23 *located within the service territory of the electrical corporation*
24 *and receives bundled service, distribution service, or transmission*
25 *service from the electrical corporation.*

26 (4) “Net energy metering” means measuring the difference
27 between the electricity supplied through the electrical grid and the
28 difference between the electricity generated by an eligible fuel cell
29 electrical generating facility and fed back to the electric grid over
30 a 12-month period as described in subdivision (e). Net energy
31 metering shall be accomplished using a time-of-use meter capable
32 of registering the flow of electricity in two directions. If the existing
33 electrical meter of an eligible fuel cell customer-generator is not
34 capable of measuring the flow of electricity in two directions, the
35 eligible fuel cell customer-generator shall be responsible for all
36 expenses involved in purchasing and installing a meter that is able
37 to measure electricity flow in two directions. If an additional meter
38 or meters are installed, the net energy metering calculation shall
39 yield a result identical to that of a time-of-use meter.

1 (b) Every electrical corporation shall, not later than March 1,
2 2004, file with the commission a standard tariff providing for net
3 energy metering for eligible fuel cell customer-generators,
4 consistent with this section. Every electrical corporation shall make
5 this tariff available to eligible fuel cell customer-generators upon
6 request, on a first-come-first-served basis, until the total cumulative
7 rated generating capacity ~~used by the eligible fuel cell~~
8 ~~customer-generators equals 45 megawatts within the service~~
9 ~~territory of the electrical corporation for an electrical corporation~~
10 ~~with a peak demand above 10,000 megawatts, or equals 22.5~~
11 ~~megawatts within the service territory of the electrical corporation~~
12 ~~for an electrical corporation with a peak demand of 10,000~~
13 ~~megawatts or below. The combined statewide cumulative rated~~
14 ~~generating capacity used by the eligible fuel cell~~
15 ~~customer-generators in the service territories of all electrical~~
16 ~~corporations in the state may not exceed 112.5 megawatts of the~~
17 *eligible fuel cell electrical generating facilities receiving service*
18 *pursuant to the tariff reaches 1 percent of the aggregate customer*
19 *peak demand for the electrical corporation's service territory. An*
20 *electrical corporation is not obligated to provide net energy*
21 *metering to an eligible fuel cell customer-generator when the total*
22 *cumulative rated generating capacity of the eligible fuel cell*
23 *electrical generating facilities receiving service pursuant to the*
24 *tariff is equal to or exceeds 1 percent of the aggregate customer*
25 *peak demand for the electrical corporation's service territory.*

26 (c) In determining the eligibility for the cumulative rated
27 generating capacity within an electrical service area, preference
28 shall be given to facilities which, at the time of installation, are
29 located in a community with significant exposure to air
30 contaminants or localized air contaminants, or both, including, but
31 not limited to, communities of minority populations or low-income
32 populations, or both, based on the ambient air quality standards
33 established pursuant to Section 39607 of the Health and Safety
34 Code.

35 (d) Each net energy metering contract or tariff shall be identical,
36 with respect to rate structure, all retail rate components, and any
37 monthly charges, to the contract or tariff to which the customer
38 would be assigned if the customer was not an eligible fuel cell
39 customer-generator. Any new or additional demand charge, standby
40 charge, customer charge, minimum monthly charge,

1 interconnection charge, or other charge that would increase an
2 eligible fuel cell customer-generator's costs beyond those of other
3 customers in the rate class to which the eligible fuel cell
4 customer-generator would otherwise be assigned are contrary to
5 the intent of the Legislature in enacting the act adding this section,
6 and may not form a part of net energy metering tariffs.

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

13 (1) The eligible fuel cell customer-generator shall, at the end
14 of each 12-month period following the date of final interconnection
15 of the eligible fuel cell electrical generating facility with an
16 electrical corporation, and at each anniversary date thereafter, be
17 billed for electricity used during that period. The electrical
18 corporation shall determine if the eligible fuel cell
19 customer-generator was a net consumer or a net producer of
20 electricity during that period. For purposes of determining if the
21 eligible fuel cell customer-generator was a net consumer or a net
22 producer of electricity during that period, the electrical corporation
23 shall aggregate the electrical load of the eligible fuel cell
24 customer-generator under the same ownership. Each aggregated
25 account shall be billed and measured according to a time-of-use
26 rate schedule.

27 (2) At the end of each 12-month period, where the electricity
28 supplied during the period by the electrical corporation exceeds
29 the electricity generated by the eligible fuel cell customer-generator
30 during that same period, the eligible fuel cell customer-generator
31 is a net electricity consumer and the electrical corporation shall
32 be owed compensation for the eligible fuel cell
33 customer-generator's net kilowatthour consumption over that same
34 period. The compensation owed for the eligible fuel cell
35 customer-generator's consumption shall be calculated as follows:

36 (A) The generation charges for any net monthly consumption
37 of electricity shall be calculated according to the terms of the tariff
38 to which the same customer would be assigned to or be eligible
39 for if the customer was not an eligible fuel cell customer-generator.
40 When the eligible fuel cell customer-generators is a net generator

1 during any discrete time-of-use period, the net kilowatthours
2 produced shall be valued at the same price per kilowatthour as the
3 electrical corporation would charge for retail kilowatthour sales
4 for generation, exclusive of any surcharges, during that same
5 time-of-use period. If the eligible fuel cell customer-generator's
6 time-of-use electrical meter is unable to measure the flow of
7 electricity in two directions, paragraph (4) of subdivision (a) shall
8 apply. All other charges, other than generation charges, shall be
9 calculated in accordance with the eligible fuel cell
10 customer-generator's applicable tariff and based on the total
11 kilowatthours delivered by the electrical corporation to the eligible
12 fuel cell customer-generator. To the extent that charges for
13 transmission and distribution services are recovered through
14 demand charges in any particular month, no standby reservation
15 charges shall apply in that monthly billing cycle.

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

18 (3) At the end of each 12-month period, where the electricity
19 generated by the eligible fuel cell customer-generator during the
20 12-month period exceeds the electricity supplied by the electrical
21 corporation during that same period, the eligible fuel cell
22 customer-generator is a net electricity producer and the electrical
23 corporation shall retain any excess kilowatthours generated during
24 the prior 12-month period. The eligible fuel cell customer-generator
25 shall not be owed any compensation for those excess kilowatthours.

26 (4) If an eligible fuel cell customer-generator terminates service
27 with the electrical corporation, the electrical corporation shall
28 reconcile the eligible fuel cell customer-generator's consumption
29 and production of electricity during any 12-month period.

30 (f) A fuel cell electrical generating facility shall not be eligible
31 for participation in the tariff established pursuant to this section
32 unless it commenced operation before January 1, 2014. A fuel cell
33 customer-generator shall be eligible for the tariff established
34 pursuant to this section only for the operating life of the eligible
35 fuel cell electrical generating facility.

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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