

Introduced by Senator WolkFebruary 17, 2011

An act to amend Section 2827 of, and to repeal Section 2827.9 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 489, as introduced, Wolk. Electricity: net energy metering.

Existing law, relative to private energy producers, 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 requires that the generating facility use a solar or wind turbine, or a hybrid system of both and have a generating capacity of not more than 1 megawatt.

This bill would revise the definition of an eligible customer-generator to instead require that the generating facility be an eligible renewable energy resource, as defined in the California renewables portfolio standard program, and that it have a generating capacity of not more than 1.5 megawatts. The bill would make other conforming and technical, nonsubstantive revisions.

Existing law established a pilot program to provide energy net metering for eligible biogas digester customer-generators.

This bill would repeal that pilot program.

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 an order of the commission would be required to implement certain of the bill’s requirements and a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new 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 of the Public Utilities Code is
2 amended to read:
3 2827. (a) The Legislature finds and declares that a program
4 to provide net energy metering combined with net surplus
5 compensation, co-energy metering, and wind energy co-metering
6 for eligible customer-generators is one way to encourage substantial
7 private investment in renewable energy resources, stimulate in-state
8 economic growth, reduce demand for electricity during peak
9 consumption periods, help stabilize California’s energy supply
10 infrastructure, enhance the continued diversification of California’s
11 energy resource mix, reduce interconnection and administrative
12 costs for electricity suppliers, and encourage conservation and
13 efficiency.

14 (b) As used in this section, the following terms have the
15 following meanings:

16 (1) “Co-energy metering” means a program that is the same in
17 all other respects as a net energy metering program, except that
18 the local publicly owned electric utility has elected to apply a
19 generation-to-generation energy and time-of-use credit formula
20 as provided in subdivision (i).

21 (2) “Electrical cooperative” means an electrical cooperative as
22 defined in Section 2776.

23 (3) “Electric utility” means an electrical corporation, a local
24 publicly owned electric utility, or an electrical cooperative, or any
25 other entity, except an electric service provider, that offers electrical

1 service. This section shall not apply to a local publicly owned
2 electric utility that serves more than 750,000 customers and that
3 also conveys water to its customers.

4 (4) “Eligible customer-generator” means a residential customer,
5 small commercial customer as defined in subdivision (h) of Section
6 331, or commercial, industrial, or agricultural customer of an
7 electric utility, who uses ~~a solar or a wind turbine electrical~~
8 ~~generating facility, or a hybrid system of both, an eligible~~
9 ~~renewable energy resource~~ with a capacity of not more than one
10 ~~megawatt and one-half megawatts~~, that is located on the customer’s
11 owned, leased, or rented premises, and is interconnected and
12 operates in parallel with the electric grid, and is intended primarily
13 to offset part or all of the customer’s own electrical requirements.

14 (5) “*Eligible renewable energy resource*” has the same meaning
15 as defined in Article 16 (commencing with Section 399.11) of
16 Chapter 2.3 of Part 1.

17 ~~(5)~~

18 (6) “Net energy metering” means measuring the difference
19 between the electricity supplied through the electric grid and the
20 electricity generated by an eligible customer-generator and fed
21 back to the electric grid over a 12-month period as described in
22 subdivisions (c) and (h).

23 ~~(6)~~

24 (7) “Net surplus customer-generator” means an eligible
25 customer-generator that generates more electricity during a
26 12-month period than is supplied by the electric utility to the
27 eligible customer-generator during the same 12-month period.

28 ~~(7)~~

29 (8) “Net surplus electricity” means all electricity generated by
30 an eligible customer-generator measured in kilowatthours over a
31 12-month period that exceeds the amount of electricity consumed
32 by that eligible customer-generator.

33 ~~(8)~~

34 (9) “Net surplus electricity compensation” means a per
35 kilowatthour rate offered by the electric utility to the net surplus
36 customer-generator for net surplus electricity that is set by the
37 ratemaking authority pursuant to subdivision (h).

38 ~~(9)~~

39 (10) “Ratemaking authority” means, for an electrical corporation
40 ~~or electrical cooperative~~, the commission, *for an electrical*

1 cooperative, its ratesetting body selected by its shareholders or
2 members, and for a local publicly owned electric utility, the local
3 elected body responsible for setting the rates of the local publicly
4 owned utility.

5 (10)

6 (11) “Wind energy co-metering” means any wind energy project
7 greater than 50 kilowatts, but not exceeding one megawatt, where
8 the difference between the electricity supplied through the electric
9 grid and the electricity generated by an eligible customer-generator
10 and fed back to the electric grid over a 12-month period is as
11 described in subdivision (h). Wind energy co-metering shall be
12 accomplished pursuant to Section 2827.8.

13 (c) (1) Every electric utility shall develop a standard contract
14 or tariff providing for net energy metering, and shall make this
15 standard contract or tariff available to eligible customer-generators,
16 upon request, on a first-come-first-served basis until the time that
17 the total rated generating capacity used by eligible
18 customer-generators exceeds 5 percent of the electric utility’s
19 aggregate customer peak demand. Net energy metering shall be
20 accomplished using a single meter capable of registering the flow
21 of electricity in two directions. An additional meter or meters to
22 monitor the flow of electricity in each direction may be installed
23 with the consent of the eligible customer-generator, at the expense
24 of the electric utility, and the additional metering shall be used
25 only to provide the information necessary to accurately bill or
26 credit the eligible customer-generator pursuant to subdivision (h),
27 or to collect solar or wind electric generating system performance
28 information for research purposes *relative to eligible renewable*
29 *energy resources*. If the existing electrical meter of an eligible
30 customer-generator is not capable of measuring the flow of
31 electricity in two directions, the eligible customer-generator shall
32 be responsible for all expenses involved in purchasing and
33 installing a meter that is able to measure electricity flow in two
34 directions. If an additional meter or meters are installed, the net
35 energy metering calculation shall yield a result identical to that of
36 a single meter. An eligible customer-generator that is receiving
37 service other than through the standard contract or tariff may elect
38 to receive service through the standard contract or tariff until the
39 electric utility reaches the generation limit set forth in this
40 paragraph. Once the generation limit is reached, only eligible

1 customer-generators that had previously elected to receive service
2 pursuant to the standard contract or tariff have a right to continue
3 to receive service pursuant to the standard contract or tariff.
4 Eligibility for net energy metering does not limit an eligible
5 customer-generator's eligibility for any other rebate, incentive, or
6 credit provided by the electric utility, or pursuant to any
7 governmental program, including rebates and incentives provided
8 pursuant to the California Solar Initiative.

9 (2) An electrical corporation shall include a provision in the net
10 energy metering contract or tariff requiring that any customer with
11 an existing electrical generating facility and meter who enters into
12 a new net energy metering contract shall provide an inspection
13 report to the electrical corporation, unless the electrical generating
14 facility and meter have been installed or inspected within the
15 previous three years. The inspection report shall be prepared by a
16 California licensed contractor who is not the owner or operator of
17 the facility and meter. A California licensed electrician shall
18 perform the inspection of the electrical portion of the facility and
19 meter.

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

26 (B) An electric service provider operating pursuant to Section
27 394 shall make available to the ratemaking authority the
28 information required by this paragraph for each eligible
29 customer-generator that is their customer for each service area of
30 an ~~electric~~ *electrical* corporation, local publicly owned ~~electric~~
31 *electrical* utility, or electrical cooperative, in which the eligible
32 customer-generator has net energy metering.

33 (C) The ratemaking authority shall develop a process for making
34 the information required by this paragraph available to electric
35 utilities, and for using that information to determine when, pursuant
36 to paragraphs (1) and (4), an electric utility is not obligated to
37 provide net energy metering to additional eligible
38 customer-generators in its service area.

39 (4) An electric utility is not obligated to provide net energy
40 metering to additional eligible customer-generators in its service

1 area when the combined total peak demand of all electricity used
2 by eligible customer-generators served by all the electric utilities
3 in that service area furnishing net energy metering to eligible
4 customer-generators exceeds 5 percent of the aggregate customer
5 peak demand of those electric utilities.

6 (5) By January 1, 2010, the commission, in consultation with
7 the Energy Commission, shall submit a report to the Governor and
8 the Legislature on the costs and benefits of net energy metering,
9 wind energy co-metering, and co-energy metering to participating
10 customers and nonparticipating customers and with options to
11 replace the economic costs and benefits of net energy metering,
12 wind energy co-metering, and co-energy metering with a
13 mechanism that more equitably balances the interests of
14 participating and nonparticipating customers, and that incorporates
15 the findings of the report on economic and environmental costs
16 and benefits of net metering required by subdivision (n).

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

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

30 (2) Every electric utility shall ensure that requests for an
31 interconnection agreement from an eligible customer-generator
32 are 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.

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

1 (f) (1) If a customer participates in direct transactions pursuant
2 to paragraph (1) of subdivision (b) of Section 365, *or Section 365.1*,
3 with an electric service provider that does not provide distribution
4 service for the direct transactions, the electric utility that provides
5 distribution service for the eligible customer-generator is not
6 obligated to provide net energy metering or net surplus electricity
7 compensation to the customer.

8 (2) If a customer participates in direct transactions pursuant to
9 paragraph (1) of subdivision (b) of Section 365 with an electric
10 service provider, and the customer is an eligible
11 customer-generator, the electric utility that provides distribution
12 service for the direct transactions may recover from the customer's
13 electric service provider the incremental costs of metering and
14 billing service related to net energy metering and net surplus
15 electricity compensation in an amount set by the ratemaking
16 authority.

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

1 *renewable energy resource* is contrary to the intent of this section,
2 and shall not form a part of net energy metering contracts or tariffs.

3 (h) For eligible customer-generators, the net energy metering
4 calculation shall be made by measuring the difference between
5 the electricity supplied to the eligible customer-generator and the
6 electricity generated by the eligible customer-generator and fed
7 back to the electric grid over a 12-month period. The following
8 rules shall apply to the annualized net metering calculation:

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

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

28 (A) For all eligible customer-generators taking service under
29 contracts or tariffs employing "baseline" and "over baseline" rates,
30 any net monthly consumption of electricity shall be calculated
31 according to the terms of the contract or tariff to which the same
32 customer would be assigned to, or be eligible for, if the customer
33 was not an eligible customer-generator. If those same
34 customer-generators are net generators over a billing period, the
35 net kilowatthours generated shall be valued at the same price per
36 kilowatthour as the electric utility would charge for the baseline
37 quantity of electricity during that billing period, and if the number
38 of kilowatthours generated exceeds the baseline quantity, the excess
39 shall be valued at the same price per kilowatthour as the electric

1 utility would charge for electricity over the baseline quantity during
2 that billing period.

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

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

33 (3) At the end of each 12-month period, where the electricity
34 generated by the eligible customer-generator during the 12-month
35 period exceeds the electricity supplied by the electric utility during
36 that same period, the eligible customer-generator is a net surplus
37 customer-generator and the electric utility—~~shall~~, upon an
38 affirmative election by the ~~eligible~~ *net surplus* customer-generator,
39 *shall* either (A) provide net surplus electricity compensation for
40 any net surplus electricity generated during the prior 12-month

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

23 (4) (A) The ratemaking authority shall, ~~by January 1, 2011,~~
24 establish a net surplus electricity compensation valuation to
25 compensate the net surplus customer-generator for the value of
26 net surplus electricity generated by the net surplus
27 customer-generator. The commission shall establish the valuation
28 in a ratemaking proceeding. The ratemaking authority for a local
29 publicly owned electric utility shall establish the valuation in a
30 public proceeding. The net surplus electricity compensation
31 valuation shall be established so as to provide the net surplus
32 customer-generator just and reasonable compensation for the value
33 of net surplus electricity, while leaving other ratepayers unaffected.
34 The ratemaking authority shall determine whether the
35 compensation will include, where appropriate justification exists,
36 either or both of the following components:

- 37 (i) The value of the electricity itself.
38 (ii) The value of the renewable attributes of the electricity.
39 (B) In establishing the rate pursuant to subparagraph (A), the
40 ratemaking authority shall ensure that the rate does not result in a

1 shifting of costs between ~~solar~~ *eligible* customer-generators and
2 other bundled service customers.

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

11 (B) Upon adoption of the net surplus electricity compensation
12 rate by the ratemaking authority, the net surplus electricity
13 purchased by the electric utility shall count toward the electric
14 utility's renewables portfolio standard annual procurement targets
15 for the purposes of paragraph (1) of subdivision (b) of Section
16 399.15, or for a local publicly owned electric utility, the renewables
17 portfolio standard annual procurement targets established pursuant
18 to Section 387.

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

28 (7) If an eligible residential or small commercial
29 customer-generator terminates the customer relationship with the
30 electric utility, the electric utility shall reconcile the eligible
31 customer-generator's consumption and production of electricity
32 during any part of a 12-month period following the last
33 reconciliation, according to the requirements set forth in this
34 subdivision, except that those requirements shall apply only to the
35 months since the most recent 12-month bill.

36 (8) If an electric service provider or electric utility providing
37 net energy metering to a residential or small commercial
38 customer-generator ceases providing that electric service to that
39 customer during any 12-month period, and the customer-generator
40 enters into a new net energy metering contract or tariff with a new

1 electric service provider or electric utility, the 12-month period,
2 with respect to that new electric service provider or electric utility,
3 shall commence on the date on which the new electric service
4 provider or electric utility first supplies electric service to the
5 customer-generator.

6 (i) Notwithstanding any other provisions of this section, ~~the~~
7 ~~following provisions paragraphs (1), (2), and (3)~~ shall apply to
8 an eligible customer-generator with a capacity of more than 10
9 kilowatts, but not exceeding ~~one megawatt and one-half megawatts,~~
10 that receives electric service from a local publicly owned electric
11 utility that has elected to utilize a co-energy metering program
12 unless the local publicly owned electric utility chooses to provide
13 service for eligible customer-generators with a capacity of more
14 than 10 kilowatts in accordance with subdivisions (g) and (h):

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

29 (2) The consumption of electricity from the local publicly owned
30 electric utility shall result in a cost to the eligible
31 customer-generator to be priced in accordance with the standard
32 rate charged to the eligible customer-generator in accordance with
33 the rate structure to which the customer would be assigned if the
34 customer did not use an eligible ~~solar or wind electrical generating~~
35 ~~facility~~ *renewable energy resource*. The generation of electricity
36 provided to the local publicly owned electric utility shall result in
37 a credit to the eligible customer-generator and shall be priced in
38 accordance with the generation component, established under the
39 applicable structure to which the customer would be assigned if

1 the customer did not use an eligible ~~solar or wind electrical~~
2 ~~generating facility~~ *renewable energy resource*.

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

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

35 (k) If the commission determines that there are cost or revenue
36 obligations for an electrical corporation, ~~as defined in Section 218,~~
37 that may not be recovered from customer-generators acting
38 pursuant to this section, those obligations shall remain within the
39 customer class from which any shortfall occurred and ~~may shall~~
40 not be shifted to any other customer class. Net energy metering

1 and co-energy metering customers shall not be exempt from the
2 public goods charges imposed pursuant to Article 7 (commencing
3 with Section 381), Article 8 (commencing with Section 385), or
4 Article 15 (commencing with Section 399) of Chapter 2.3 of Part
5 1. In its report to the Legislature, the commission shall examine
6 different methods to ensure that the public goods charges remain
7 nonbypassable.

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

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

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

36 (o) *It is the intent of the Legislature that the commission not*
37 *conduct a separate rulemaking prior to allowing all eligible*
38 *customer-generators using any eligible renewable energy resource*
39 *to participate in the standard contract or tariff made available*
40 *pursuant to this section.*

1 SEC. 2. Section 2827.9 of the Public Utilities Code is repealed.

2 ~~2827.9.—(a) (1) The Legislature finds and declares that a pilot~~
3 ~~program to provide net energy metering for eligible biogas digester~~
4 ~~customer-generators would enhance the continued diversification~~
5 ~~of California’s energy resource mix and would encourage the~~
6 ~~installation of livestock air emission controls that the State Air~~
7 ~~Resources Board believes may produce multiple environmental~~
8 ~~benefits:~~

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

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

19 ~~(1) “Electrical corporation” means an electrical corporation, as~~
20 ~~defined in Section 218:~~

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

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

30 ~~(ii) Is the recipient of local, state, or federal funds, or who~~
31 ~~self-finances pilot projects designed to encourage the development~~
32 ~~of eligible biogas digester electrical generating facilities:~~

33 ~~(B) Notwithstanding subparagraph (A), up to three large biogas~~
34 ~~digester electrical generating facilities with a generating capacity~~
35 ~~of more than one megawatt and not more than 10 megawatts,~~
36 ~~otherwise meeting the criteria of this section, shall be eligible for~~
37 ~~participation in the pilot program:~~

38 ~~(3) “Eligible biogas digester electrical generating facility” means~~
39 ~~a generating facility used to produce electricity by either a manure~~

1 methane production project or as a byproduct of the anaerobic
2 digestion of biosolids and animal waste.

3 (4) “Net energy metering” means measuring the difference
4 between the electricity supplied through the electric grid and the
5 difference between the electricity generated by an eligible biogas
6 digester customer-generator and fed back to the electric grid over
7 a 12-month period as described in subdivision (c). Net energy
8 metering shall be accomplished using a time-of-use meter capable
9 of registering the flow of electricity in two directions. If the existing
10 electrical meter of an eligible biogas digester customer-generator
11 is not capable of measuring the flow of electricity in two directions,
12 the eligible biogas digester customer-generator shall be responsible
13 for all expenses involved in purchasing and installing a meter that
14 is able to measure electricity flow in two directions. If an additional
15 meter or meters are installed, the net energy metering calculation
16 shall yield a result identical to that of a time-of-use meter.

17 (e) Every electrical corporation shall file with the commission
18 a standard tariff providing for net energy metering for eligible
19 biogas digester customer-generators, consistent with this section.
20 Every electrical corporation shall make this tariff available to
21 eligible biogas digester customer-generators upon request, on a
22 first-come-first-served basis, until the combined statewide
23 cumulative rated generating capacity used by the eligible biogas
24 digester customer-generators in the service territories of the three
25 largest electrical corporations in the state reaches 50 megawatts.
26 An eligible biogas digester customer-generator shall be eligible
27 for the tariff for the life of the eligible biogas digester electrical
28 generating facility.

29 (d) Each net energy metering contract or tariff shall be identical,
30 with respect to rate structure, all retail rate components, and any
31 monthly charges, to the contract or tariff to which the same
32 customer would be assigned if the customer was not an eligible
33 biogas digester customer-generator, except as set forth in
34 subdivision (c). Any new or additional demand charge, standby
35 charge, customer charge, minimum monthly charge,
36 interconnection charge, or other charge that would increase an
37 eligible biogas digester customer-generator’s costs beyond those
38 of other customers in the rate class to which the eligible biogas
39 digester customer-generator would otherwise be assigned are

1 contrary to the intent of this legislation, and shall not form a part
2 of net energy metering tariffs.

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

9 ~~(1) The eligible biogas digester customer-generator shall, at the~~
10 ~~end of each 12-month period following the date of final~~
11 ~~interconnection of the eligible biogas digester customer-generator's~~
12 ~~system with an electrical corporation, and at each anniversary date~~
13 ~~thereafter, be billed for electricity used during that period. The~~
14 ~~electrical corporation shall determine if the eligible biogas digester~~
15 ~~customer-generator was a net consumer or a net producer of~~
16 ~~electricity during that period. For purposes of determining if the~~
17 ~~biogas digester customer-generator was a net consumer or a net~~
18 ~~producer of electricity during that period, the electrical corporation~~
19 ~~shall aggregate the electrical load of a dairy operation under the~~
20 ~~same ownership, including, but not limited to, the electrical load~~
21 ~~attributable to milking operations, milk refrigeration, and water~~
22 ~~pumping located on property adjacent or contiguous to the dairy.~~
23 ~~Each aggregated account shall be billed and measured according~~
24 ~~to a time-of-use rate schedule.~~

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

35 ~~(A) The generation charges for any net monthly consumption~~
36 ~~of electricity shall be calculated according to the terms of the tariff~~
37 ~~to which the same customer would be assigned to or be eligible~~
38 ~~for if the customer was not an eligible biogas digester~~
39 ~~customer-generator. When those eligible biogas digester~~
40 ~~customer-generators are net generators during any discrete~~

1 time-of-use period, the net kilowatthours produced shall be valued
2 at the same price per kilowatthour as the electrical corporation
3 would charge for retail kilowatthour sales for generation, exclusive
4 of any surcharges, during that same time-of-use period. If the
5 eligible biogas digester customer-generator's time-of-use electrical
6 meter is unable to measure the flow of electricity in two directions,
7 paragraph (4) of subdivision (b) shall apply. All other charges,
8 other than generation charges, shall be calculated in accordance
9 with the eligible biogas digester customer-generator's applicable
10 tariff and based on the total kilowatthours delivered by the
11 electrical corporation to the eligible biogas digester
12 customer-generator. To the extent that charges for transmission
13 and distribution services are recovered through demand charges
14 in any particular month, no standby reservation charges shall apply
15 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 biogas digester customer-generator during
20 the 12-month period exceeds the electricity supplied by the
21 electrical corporation during that same period, the eligible biogas
22 digester customer-generator is a net electricity producer and the
23 electrical corporation shall retain any excess kilowatthours
24 generated during the prior 12-month period. The eligible biogas
25 digester customer-generator shall not be owed any compensation
26 for those excess kilowatthours.

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

32 (f) No biogas digester electrical generating facility shall be
33 eligible for participation in the tariff established pursuant to this
34 section, that has not commenced operation by December 31, 2009.
35 A biogas digester customer-generator shall be eligible for the tariff
36 established pursuant to this section, only for the operating life of
37 the eligible biogas digester electrical generating facility.

38 (g) No biogas digester electrical generating facility that is subject
39 to the best available control technology (BACT) requirements shall
40 be eligible for participation in the tariff pursuant to this section

1 unless the biogas digester electrical generating facility has installed
2 the best available control technology as required by the regional
3 air pollution control district at the time of installation to ensure
4 the maximum feasible reductions in toxic and criteria pollutants.

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

8 ~~(1) The impact of the pilot program on emissions of air~~
9 ~~pollutants.~~

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

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

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.