

AMENDED IN SENATE JUNE 12, 2014

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 365

Introduced by Assembly Member Mullin

February 14, 2013

~~An act to amend Section 273 of, and to add Section 275 to, the Code of Civil Procedure, relating to court reporting. An act to add Section 354 to the Public Utilities Code, relating to electricity.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 365, as amended, Mullin. ~~Court reporting.~~ *Electricity: distributed generation.*

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, 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. Existing law requires the commission to require each electrical corporation under the operational control of the Independent System Operator as of January 1, 2001, to modify tariffs so that all customers that install new distributed energy resources, as defined, in accordance with specified criteria are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources. Existing law provides, notwithstanding these requirements, that a customer that installs new distributed energy resources not be

exempted from (1) reasonable interconnection charges, (2) charges imposed pursuant to the Reliable Electric Service Investment Act, and (3) charges imposed to repay the Department of Water Resources for electricity procurement expenses incurred in response to the electricity crisis of 2000–01. Existing law requires the commission, in establishing the rates applicable to customers that install new distributed energy resources, to create a firewall that segregates distribution cost recovery so that any net costs, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, resulting from the tariff modifications granted to members of each customer class may be recovered only from that class.

This bill would, to the extent authorized by federal law, require the commission, by July 1, 2015, to do both of the following for those electrical corporation customers that have operational clean distributed energy resources, as defined: (1) require each electrical corporation to collect all applicable nonbypassable charges fixed or imposed by the commission based only on the actual metered consumption of electricity delivered to the customer through the electrical corporation's transmission or distribution system, and (2) calculate a reservation capacity for standby service, if applicable, based on the capacity needed by an electrical corporation to serve a customer's electrical demand during an outage of the clean distributed energy resource providing electric service for that customer.

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 provisions of this bill would be a part of the act and because 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.

~~Existing law provides that the report of the official court reporter or official court reporter pro tempore, of any court, duly appointed and sworn, when transcribed and certified as being a correct transcript of~~

~~the testimony and proceedings in the case, is prima facie evidence of that testimony and proceeding.~~

~~The bill would make clarifying changes to those provisions.~~

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

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Clean onsite generation of electricity yields multiple benefits,*
4 *including increased electrical reliability, reduced emissions of*
5 *greenhouse gases and oxides of nitrogen (NOx), and electrical*
6 *grid resiliency.*

7 *(b) Increased deployment of clean onsite electricity generation*
8 *reduces the need for generation that emits higher levels of*
9 *greenhouse gases that contribute to climate change and higher*
10 *levels of NOx that contribute to smog formation.*

11 *(c) Several types of clean onsite electrical generation*
12 *technologies currently exist and others are being developed, with*
13 *many being manufactured and developed in California.*

14 *(d) Nonbypassable charges applied by electrical corporations*
15 *to electricity produced and consumed onsite are a major*
16 *impediment to broader deployment of clean onsite generation*
17 *technologies. Residential, commercial, and industrial customers*
18 *are willing to invest their own capital to install clean onsite*
19 *generation technologies. However, nonbypassable charges applied*
20 *to electricity produced and consumed onsite create an economic*
21 *barrier to these investments.*

22 *(e) California is the only state that allows electrical corporations*
23 *to apply nonbypassable charges to electricity produced and*
24 *consumed onsite among those states with similarly high energy*
25 *prices and environmental goals, including New York, New Jersey,*
26 *Maryland, Vermont, Connecticut, and Hawaii.*

27 *(f) A recent study shows that all ratepayers would see a net cost*
28 *savings from increased deployment of onsite electricity generation*
29 *at customer sites that pay nonbypassable charges only on their*
30 *electricity purchases from the grid. This ratepayer savings arises*
31 *because onsite electricity generation reduces demand on the*
32 *electrical grid, which reduces market electricity prices, and avoids*

1 *transmission and distribution costs and energy losses. On average,*
2 *all ratepayers in electrical corporation service areas would see*
3 *an energy rate savings of between seventeen cents (\$0.17) and*
4 *thirty-seven cents (\$0.37) per megawatt hour, which translates to*
5 *an average household savings of between nine cents (\$0.09) and*
6 *eighteen cents (\$0.18) per month.*

7 *(g) Other cost-saving benefits to all ratepayers from clean onsite*
8 *electrical generation include reductions in future generating*
9 *capacity requirements, reductions in electrical grid congestion*
10 *prices, reductions in emissions of greenhouse gases and criteria*
11 *air pollutants, and increases in electrical grid resiliency and*
12 *security.*

13 *(h) Nonbypassable charges create an economic barrier to the*
14 *installation of clean onsite electrical generation and, as a result,*
15 *prevent cost savings for all ratepayers and environmental benefits*
16 *for all Californians.*

17 *SEC. 2. Section 354 is added to the Public Utilities Code, to*
18 *read:*

19 *354. (a) As used in this section, “clean distributed energy*
20 *resource” means a facility that is located on the customer’s*
21 *premises and generates electricity, or electricity and useful heat,*
22 *where the electricity generated is used for a purpose described in*
23 *paragraph (1) or (2) of subdivision (b) of Section 218, and that*
24 *meets either of the following requirements:*

25 *(1) It meets all of the following criteria:*

26 *(A) Produces emissions of greenhouse gases at a rate per*
27 *megawatthour, accounting for waste heat recovery, where*
28 *applicable, and savings on transmission and distribution losses,*
29 *that is less than or equal to an emissions rate determined by the*
30 *Energy Commission by January 30, 2015, that represents the*
31 *emissions of greenhouse gases from the marginal generating unit*
32 *dispatched to meet the demand on the electrical grid that is avoided*
33 *by the electricity generated by the clean distributed energy*
34 *resource.*

35 *(B) Has an oxide of nitrogen (NOx) emissions rate, including*
36 *credit for waste heat recovery, when applicable, that is less than*
37 *or equal to 0.07 pounds per megawatthour, or a lower NOx*
38 *emissions rate that the State Air Resources Board determines*
39 *reflects the best performance achieved in practice by existing*

1 *electrical generation technologies pursuant to Section 41514.9 of*
2 *the Health and Safety Code.*

3 *(C) Has a nameplate rated generation capacity of 20 megawatts*
4 *or less.*

5 *(2) It is an “eligible renewable energy resource” pursuant to*
6 *the California Renewables Portfolio Standard Program (Article*
7 *16 (commencing with Section 399.11)) that has a nameplate rated*
8 *generation capacity of 20 megawatts or less.*

9 *(b) To the extent authorized by federal law, by July 1, 2015, the*
10 *commission shall do both of the following for those electrical*
11 *corporation customers served by clean distributed energy*
12 *resources:*

13 *(1) Require each electrical corporation to collect all applicable*
14 *nonbypassable charges fixed or imposed by the commission based*
15 *only on the actual metered consumption of electricity delivered to*
16 *the customer through the electrical corporation’s transmission or*
17 *distribution system. All charges shall be at the same rate per*
18 *kilowatthour as paid by other customers that do not employ a clean*
19 *distributed energy resource under the electrical corporation’s*
20 *applicable rate schedule.*

21 *(2) (A) Calculate a reservation capacity for standby service, if*
22 *applicable, based on the capacity needed by an electrical*
23 *corporation to serve a customer’s electrical demand during an*
24 *outage of the clean distributed energy resource providing electric*
25 *service for that customer.*

26 *(B) Initial reservation capacity shall be established by the*
27 *customer for a minimum of 12 months based on the clean*
28 *distributed energy resource generation technology’s historical*
29 *operation, the number, size, and outage diversity of the clean*
30 *distributed energy resource, and the annual average reduction of*
31 *customer load that could occur during an outage.*

32 *(C) If after the initial 12-month period, the electrical corporation*
33 *reasonably determines that the reservation capacity does not reflect*
34 *the customer’s actual standby demand, averaged over the previous*
35 *12 months, the electrical corporation shall modify the reservation*
36 *capacity once every 12 months to reflect the customer’s actual*
37 *average annual reservation capacity based on the same criteria*
38 *used to establish the initial reservation capacity. Calculation of*
39 *actual average annual reservation capacity shall exclude the*
40 *customer’s electrical demand served by the electrical corporation*

1 *within 24 hours following an outage of the clean distributed energy*
2 *resource resulting from any event on the electrical corporation's*
3 *transmission or distribution grid that is outside of the customer's*
4 *control that requires the customer to reduce onsite generation.*

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

14 ~~SECTION 1. Section 273 of the Code of Civil Procedure, as~~
15 ~~amended by Section 1 of Chapter 87 of the Statutes of 2009, is~~
16 ~~amended to read:~~

17 ~~273. (a) Notwithstanding any other provision of law, the report~~
18 ~~of the official reporter, or official reporter pro tempore, of any~~
19 ~~court, duly appointed and sworn, when transcribed and certified~~
20 ~~as being a correct transcript of the testimony and proceedings in~~
21 ~~the case, is prima facie evidence of that testimony and proceedings.~~

22 ~~(b) The report of the official reporter, or official reporter pro~~
23 ~~tempore, of any court, duly appointed and sworn, when prepared~~
24 ~~as a rough draft transcript, shall not be certified and cannot be~~
25 ~~used, cited, distributed, or transcribed as the official certified~~
26 ~~transcript of the proceedings. A rough draft transcript shall not be~~
27 ~~cited or used in any way or at any time to rebut or contradict the~~
28 ~~official certified transcript of the proceedings as provided by the~~
29 ~~official reporter or official reporter pro tempore. The production~~
30 ~~of a rough draft transcript shall not be required.~~

31 ~~(c) The instant visual display of the testimony or proceedings,~~
32 ~~or both, shall not be certified and cannot be used, cited, distributed,~~
33 ~~or transcribed as the official certified transcript of the proceedings.~~
34 ~~The instant visual display of the testimony or proceedings, or both,~~
35 ~~shall not be cited or used in any way or at any time to rebut or~~
36 ~~contradict the official certified transcript of the proceedings as~~
37 ~~provided by the official reporter or official reporter pro tempore.~~

38 ~~(d) This section shall remain in effect only until January 1, 2017,~~
39 ~~and as of that date is repealed, unless a later enacted statute, that~~
40 ~~is enacted before January 1, 2017, deletes or extends that date.~~

1 ~~SEC. 2.— Section 273 of the Code of Civil Procedure, as added by~~
2 ~~Section 2 of Chapter 87 of the Statutes of 2009, is amended to~~
3 ~~read:~~

4 ~~273. (a) Notwithstanding any other provision of law, the report~~
5 ~~of the official reporter, or official reporter pro tempore, of any~~
6 ~~court, duly appointed and sworn, when transcribed and certified~~
7 ~~as being a correct transcript of the testimony and proceedings in~~
8 ~~the case, is prima facie evidence of that testimony and proceedings.~~

9 ~~(b) The report of the official reporter, or official reporter pro~~
10 ~~tempore, of any court, duly appointed and sworn, when prepared~~
11 ~~as a rough draft transcript, shall not be certified and cannot be~~
12 ~~used, cited, distributed, or transcribed as the official certified~~
13 ~~transcript of the proceedings. A rough draft transcript shall not be~~
14 ~~cited or used in any way or at any time to rebut or contradict the~~
15 ~~official certified transcript of the proceedings as provided by the~~
16 ~~official reporter or official reporter pro tempore. The production~~
17 ~~of a rough draft transcript shall not be required.~~

18 ~~(c) This section shall become operative on January 1, 2017.~~

19 ~~SEC. 3.— Section 275 is added to the Code of Civil Procedure,~~
20 ~~to read:~~

21 ~~275. For the purposes of this chapter, an official reporter or an~~
22 ~~official reporter pro tempore shall be appointed as provided by~~
23 ~~Section 69942 of the Government Code.~~