

ASSEMBLY BILL

No. 1228

Introduced by Assembly Member V. Manuel Pérez

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1228, as introduced, V. Manuel Pérez. Electricity: eligible fuel cell customer-generators.

Existing law establishes a net energy metering program that is available to an eligible fuel cell customer-generator, which is defined as a customer of an electrical corporation and, among other things, uses a fuel cell electrical generating facility with capacity of not more than one megawatt. Existing law requires that the net metering calculation be made by measuring the difference between the electricity supplied to the eligible fuel cell customer-generator and the electricity generated by the eligible fuel cell customer-generator and fed back to the electrical grid over a 12-month period. Existing law requires that an electrical corporation determine if the eligible fuel cell customer-generator was a net consumer or producer of electricity during the 12-month period. For purposes of making this determination, existing law requires that the electrical corporation aggregate the electrical load of the eligible fuel cell customer-generator under the same ownership.

This bill would increase the capacity of a fuel cell electrical generating facility to not more than 3 megawatts.

Because the bill would require an expansion of the above-described net energy metering programs and would require an order or decision of the commission to implement, a violation of which is a crime, these

provisions 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.
 15 (3) (A) “Eligible fuel cell customer-generator” means a
 16 customer of an electrical corporation that meets all the following
 17 criteria:
 18 (i) Uses a fuel cell electrical generating facility with a capacity
 19 of not more than ~~one megawatt~~ *three megawatts* that is located on
 20 or adjacent to the customer’s owned, leased, or rented premises,
 21 is interconnected and operates in parallel with the electrical grid
 22 while the grid is operational or in a grid independent mode when
 23 the grid is nonoperational, and is sized to offset part or all of the
 24 eligible fuel cell customer-generator’s own electrical requirements.
 25 (ii) Is the recipient of local, state, or federal funds, or who
 26 self-finances projects designed to encourage the development of
 27 eligible fuel cell electrical generating facilities.

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

5 (B) For purposes of this paragraph, a person or entity is a
6 customer of the electrical corporation if the customer is physically
7 located within the service territory of the electrical corporation
8 and receives bundled service, distribution service, or transmission
9 service from the electrical corporation.

10 (4) “Net energy metering” means measuring the difference
11 between the electricity supplied through the electrical grid and the
12 difference between the electricity generated by an eligible fuel cell
13 electrical generating facility and fed back to the electrical grid over
14 a 12-month period as described in subdivision (e). Net energy
15 metering shall be accomplished using a time-of-use meter capable
16 of registering the flow of electricity in two directions. If the existing
17 electrical meter of an eligible fuel cell customer-generator is not
18 capable of measuring the flow of electricity in two directions, the
19 eligible fuel cell customer-generator shall be responsible for all
20 expenses involved in purchasing and installing a meter that is able
21 to measure electricity flow in two directions. If an additional meter
22 or meters are installed, the net energy metering calculation shall
23 yield a result identical to that of a time-of-use meter.

24 (b) (1) Every electrical corporation, not later than March 1,
25 2004, shall file with the commission a standard tariff providing
26 for net energy metering for eligible fuel cell customer-generators,
27 consistent with this section. Subject to the limitation in subdivision
28 (f), every electrical corporation shall make this tariff available to
29 eligible fuel cell customer-generators upon request, on a
30 first-come-first-served basis, until the total cumulative rated
31 generating capacity of the eligible fuel cell electrical generating
32 facilities receiving service pursuant to the tariff reaches a level
33 equal to its proportionate share of a statewide limitation of 500
34 megawatts cumulative rated generation capacity served under this
35 section. The proportionate share shall be calculated based on the
36 ratio of the electrical corporation’s peak demand compared to the
37 total statewide peak demand.

38 (2) To continue the growth of the market for onsite electric
39 generation using fuel cells, the commission may review and
40 incrementally raise the limitation established in paragraph (1) on

1 the total cumulative rated generating capacity of the eligible fuel
2 cell electrical generating facilities receiving service pursuant to
3 the tariff in paragraph (1).

4 (c) In determining the eligibility for the cumulative rated
5 generating capacity within an electrical corporation's service
6 territory, preference shall be given to facilities that, at the time of
7 installation, are located in a community with significant exposure
8 to air contaminants or localized air contaminants, or both,
9 including, but not limited to, communities of minority populations
10 or low-income populations, or both, based on the ambient air
11 quality standards established pursuant to Section 39607 of the
12 Health and Safety Code.

13 (d) (1) Each net energy metering contract or tariff shall be
14 identical, with respect to rate structure, all retail rate components,
15 and any monthly charges, to the contract or tariff to which the
16 customer would be assigned if the customer was not an eligible
17 fuel cell customer-generator. Any new or additional demand
18 charge, standby charge, customer charge, minimum monthly
19 charge, interconnection charge, or other charge that would increase
20 an eligible fuel cell customer-generator's costs beyond those of
21 other customers in the rate class to which the eligible fuel cell
22 customer-generator would otherwise be assigned are contrary to
23 the intent of the Legislature in enacting this section, and may not
24 form a part of net energy metering tariffs.

25 (2) The commission shall authorize an electrical corporation to
26 charge a fuel cell customer-generator a fee based on the cost to
27 the utility associated with providing interconnection inspection
28 services for that fuel cell customer-generator.

29 (e) The net metering calculation shall be made by measuring
30 the difference between the electricity supplied to the eligible fuel
31 cell customer-generator and the electricity generated by the eligible
32 fuel cell customer-generator and fed back to the electrical grid
33 over a 12-month period. The following rules shall apply to the
34 annualized metering calculation:

35 (1) The eligible fuel cell customer-generator shall, at the end
36 of each 12-month period following the date of final interconnection
37 of the eligible fuel cell electrical generating facility with an
38 electrical corporation, and at each anniversary date thereafter, be
39 billed for electricity used during that period. The electrical
40 corporation shall determine if the eligible fuel cell

1 customer-generator was a net consumer or a net producer of
2 electricity during that period. For purposes of determining if the
3 eligible fuel cell customer-generator was a net consumer or a net
4 producer of electricity during that period, the electrical corporation
5 shall aggregate the electrical load of the meters located on the
6 property where the eligible fuel cell electrical generation facility
7 is located and on all property adjacent or contiguous to the property
8 on which the facility is located, if those properties are solely
9 owned, leased, or rented by the eligible fuel cell
10 customer-generator. Each aggregated account shall be billed and
11 measured according to a time-of-use rate schedule.

12 (2) At the end of each 12-month period, where the electricity
13 supplied during the period by the electrical corporation exceeds
14 the electricity generated by the eligible fuel cell customer-generator
15 during that same period, the eligible fuel cell customer-generator
16 is a net electricity consumer and the electrical corporation shall
17 be owed compensation for the eligible fuel cell
18 customer-generator's net kilowatthour consumption over that same
19 period. The compensation owed for the eligible fuel cell
20 customer-generator's consumption shall be calculated as follows:

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

1 (B) The net balance of moneys owed shall be paid in accordance
2 with the electrical corporation’s normal billing cycle.

3 (3) At the end of each 12-month period, where the electricity
4 generated by the eligible fuel cell customer-generator during the
5 12-month period exceeds the electricity supplied by the electrical
6 corporation during that same period, the eligible fuel cell
7 customer-generator is a net electricity producer and the electrical
8 corporation shall retain any excess kilowatthours generated during
9 the prior 12-month period. The eligible fuel cell customer-generator
10 shall not be owed any compensation for those excess kilowatthours.

11 (4) If an eligible fuel cell customer-generator terminates service
12 with the electrical corporation, the electrical corporation shall
13 reconcile the eligible fuel cell customer-generator’s consumption
14 and production of electricity during any 12-month period.

15 (f) No fuel cell electrical generating facility shall be eligible for
16 the tariff unless it commences operation prior to January 1, 2015,
17 unless a later enacted statute, that is chaptered before January 1,
18 2015, extends this eligibility commencement date. The tariff shall
19 remain in effect for an eligible fuel cell electrical generating facility
20 that commences operation pursuant to the tariff prior to January
21 1, 2015. A fuel cell customer-generator shall be eligible for the
22 tariff established pursuant to this section only for the operating
23 life of the eligible fuel cell electrical generating facility.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.