

**ASSEMBLY BILL**

**No. 1295**

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**Introduced by Assembly Member Roger Hernández**

February 22, 2013

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An act to amend Section 399.20 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, as introduced, Roger Hernández. Public utilities: renewable energy.

Existing law requires an electrical corporation to file with the Public Utilities Commission a standard tariff for electricity purchased from an electric generation facility and makes that tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation.

This bill would make technical, nonsubstantive changes to the above provisions and would correct erroneous cross-references.

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

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

- 1 SECTION 1. Section 399.20 of the Public Utilities Code is
- 2 amended to read:
- 3 399.20. (a) It is the policy of this state and the intent of the
- 4 Legislature to encourage electrical generation from eligible
- 5 renewable energy resources.
- 6 (b) As used in this section, “electric generation facility” means
- 7 an electric generation facility located within the service territory

1 of, and developed to sell electricity to, an electrical corporation  
2 that meets all of the following criteria:

3 (1) Has an effective capacity of not more than three megawatts.

4 (2) Is interconnected and operates in parallel with the electrical  
5 transmission and distribution grid.

6 (3) Is strategically located and interconnected to the electrical  
7 transmission and distribution grid in a manner that optimizes the  
8 deliverability of electricity generated at the facility to load centers.

9 (4) Is an eligible renewable energy resource.

10 (c) ~~Every~~*An* electrical corporation shall file with the  
11 commission a standard tariff for electricity purchased from an  
12 electric generation facility. The commission may modify or adjust  
13 the requirements of this section for ~~any~~ *an* electrical corporation  
14 with less than 100,000 service connections, as individual  
15 circumstances merit.

16 (d) (1) The tariff shall provide for payment for every  
17 kilowatthour of electricity purchased from an electric generation  
18 facility for a period of 10, 15, or 20 years, as authorized by the  
19 commission. The payment shall be the market price determined  
20 by the commission pursuant to paragraph (2) and shall include all  
21 current and anticipated environmental compliance costs, including,  
22 but not limited to, mitigation of emissions of greenhouse gases  
23 and air pollution offsets associated with the operation of new  
24 generating facilities in the local air pollution control or air quality  
25 management district where the electric generation facility is  
26 located.

27 (2) The commission shall establish a methodology to determine  
28 the market price of electricity for terms corresponding to the length  
29 of contracts with an electric generation facility, in consideration  
30 of the following:

31 (A) The long-term market price of electricity for fixed price  
32 contracts, determined pursuant to an electrical corporation's general  
33 procurement activities as authorized by the commission.

34 (B) The long-term ownership, operating, and fixed-price fuel  
35 costs associated with fixed-price electricity from new generating  
36 facilities.

37 (C) The value of different electricity products including  
38 baseload, peaking, and as-available electricity.

1 (3) The commission may adjust the payment rate to reflect the  
2 value of every kilowatthour of electricity generated on a  
3 time-of-delivery basis.

4 (4) The commission shall ensure, with respect to rates and  
5 charges, that ratepayers that do not receive service pursuant to the  
6 tariff are indifferent to whether a ratepayer with an electric  
7 generation facility receives service pursuant to the tariff.

8 (e) An electrical corporation shall provide expedited  
9 interconnection procedures to an electric generation facility located  
10 on a distribution circuit that generates electricity at a time and in  
11 a manner so as to offset the peak demand on the distribution circuit,  
12 if the electrical corporation determines that the electric generation  
13 facility will not adversely affect the distribution grid. The  
14 commission shall consider and may establish a value for an electric  
15 generation facility located on a distribution circuit that generates  
16 electricity at a time and in a manner so as to offset the peak demand  
17 on the distribution circuit.

18 (f) (1) An electrical corporation shall make the tariff available  
19 to the owner or operator of an electric generation facility within  
20 the service territory of the electrical corporation, upon request, on  
21 a first-come-first-served basis, until the electrical corporation meets  
22 its proportionate share of a statewide cap of 750 megawatts  
23 cumulative rated generation capacity served under this section and  
24 Section ~~387.6~~ 399.32. The proportionate share shall be calculated  
25 based on the ratio of the electrical corporation's peak demand  
26 compared to the total statewide peak demand.

27 (2) By June 1, 2013, the commission shall, in addition to the  
28 750 megawatts identified in paragraph (1), direct the electrical  
29 corporations to collectively procure at least 250 megawatts of  
30 cumulative rated generating capacity from developers of bioenergy  
31 projects that commence operation on or after June 1, 2013. The  
32 commission shall, for each electrical corporation, allocate shares  
33 of the additional 250 megawatts based on the ratio of each electrical  
34 corporation's peak demand compared to the total statewide peak  
35 demand. In implementing this paragraph, the commission shall do  
36 all of the following:

37 (A) Allocate the 250 megawatts identified in this paragraph  
38 among the electrical corporations based on the following  
39 categories:

1 (i) For biogas from wastewater treatment, municipal organic  
2 waste diversion, food processing, and codigestion, 110 megawatts.

3 (ii) For dairy and other agricultural bioenergy, 90 megawatts.

4 (iii) For bioenergy using byproducts of sustainable forest  
5 management, 50 megawatts. Allocations under this category shall  
6 be determined based on the proportion of bioenergy that sustainable  
7 forest management providers derive from sustainable forest  
8 management in fire threat treatment areas, as designated by the  
9 Department of Forestry and Fire Protection.

10 (B) Direct the electrical corporations to develop standard  
11 contract terms and conditions that reflect the operational  
12 characteristics of the projects, and to provide a streamlined  
13 contracting process.

14 (C) Coordinate, to the maximum extent feasible, any incentive  
15 or subsidy programs for bioenergy with the agencies listed in  
16 subparagraph (A) of paragraph (3) in order to provide maximum  
17 benefits to ratepayers and to ensure that incentives are used to  
18 reduce contract prices.

19 (D) The commission shall encourage gas and electrical  
20 corporations to develop and offer programs and services to facilitate  
21 development of in-state biogas for a broad range of purposes.

22 (3) (A) The commission, in consultation with the State Energy  
23 Resources Conservation and Development Commission, the State  
24 Air Resources Board, the Department of Forestry and Fire  
25 Protection, the Department of Food and Agriculture, and the  
26 Department of Resources Recycling and Recovery, may review  
27 the allocations of the 250 additional megawatts identified in  
28 paragraph (2) to determine if those allocations are appropriate.

29 (B) If the commission finds that the allocations of the 250  
30 additional megawatts identified in paragraph (2) are not  
31 appropriate, the commission may reallocate the 250 megawatts  
32 among the categories established in subparagraph (A) of paragraph  
33 (2).

34 (4) For the purposes of this subdivision, “bioenergy” means  
35 biogas and biomass.

36 (g) The electrical corporation may make the terms of the tariff  
37 available to owners and operators of an electric generation facility  
38 in the form of a standard contract subject to commission approval.

39 (h) Every kilowatthour of electricity purchased from an electric  
40 generation facility shall count toward meeting the electrical

1 corporation's renewables portfolio standard annual procurement  
2 targets for purposes of paragraph (1) of subdivision (b) of Section  
3 399.15.

4 (i) The physical generating capacity of an electric generation  
5 facility shall count toward the electrical corporation's resource  
6 adequacy requirement for purposes of Section 380.

7 (j) (1) The commission shall establish performance standards  
8 for any electric generation facility that has a capacity greater than  
9 one megawatt to ensure that those facilities are constructed,  
10 operated, and maintained to generate the expected annual net  
11 production of electricity and do not impact system reliability.

12 (2) The commission may reduce the three megawatt capacity  
13 limitation of paragraph (1) of subdivision (b) if the commission  
14 finds that a reduced capacity limitation is necessary to maintain  
15 system reliability within that electrical corporation's service  
16 territory.

17 (k) (1) ~~Any~~ An owner or operator of an electric generation  
18 facility that received ratepayer-funded incentives in accordance  
19 with Section 379.6 of this code, or with Section 25782 of the Public  
20 Resources Code, and participated in a net metering program  
21 pursuant to Sections ~~2827, 2827.9, 2827~~ and 2827.10 of, *and*  
22 *former Section 2827.9 of*, this code prior to January 1, 2010, shall  
23 be eligible for a tariff or standard contract filed by an electrical  
24 corporation pursuant to this section.

25 (2) In establishing the tariffs or standard contracts pursuant to  
26 this section, the commission shall consider ratepayer-funded  
27 incentive payments previously received by the generation facility  
28 pursuant to Section 379.6 of this code or Section 25782 of the  
29 Public Resources Code. The commission shall require  
30 reimbursement of any funds received from these incentive  
31 programs to an electric generation facility, in order for that facility  
32 to be eligible for a tariff or standard contract filed by an electrical  
33 corporation pursuant to this section, unless the commission  
34 determines ratepayers have received sufficient value from the  
35 incentives provided to the facility based on how long the project  
36 has been in operation and the amount of renewable electricity  
37 previously generated by the facility.

38 (3) A customer that receives service under a tariff or contract  
39 approved by the commission pursuant to this section is not eligible  
40 to participate in any net metering program.

1 (l) An owner or operator of an electric generation facility  
2 electing to receive service under a tariff or contract approved by  
3 the commission shall continue to receive service under the tariff  
4 or contract until either of the following occurs:

5 (1) The owner or operator of an electric generation facility no  
6 longer meets the eligibility requirements for receiving service  
7 pursuant to the tariff or contract.

8 (2) The period of service established by the commission pursuant  
9 to subdivision (d) is completed.

10 (m) Within 10 days of receipt of a request for a tariff pursuant  
11 to this section from an owner or operator of an electric generation  
12 facility, the electrical corporation that receives the request shall  
13 post a copy of the request on its Internet Web site. The information  
14 posted on the Internet Web site shall include the name of the city  
15 in which the facility is located, but information that is proprietary  
16 and confidential, including, but not limited to, address information  
17 beyond the name of the city in which the facility is located, shall  
18 be redacted.

19 (n) An electrical corporation may deny a tariff request pursuant  
20 to this section if the electrical corporation makes any of the  
21 following findings:

22 (1) The electric generation facility does not meet the  
23 requirements of this section.

24 (2) The transmission or distribution grid that would serve as the  
25 point of interconnection is inadequate.

26 (3) The electric generation facility does not meet all applicable  
27 state and local laws and building standards and utility  
28 interconnection requirements.

29 (4) The aggregate of all electric generating facilities on a  
30 distribution circuit would adversely impact utility operation and  
31 load restoration efforts of the distribution system.

32 (o) Upon receiving a notice of denial from an electrical  
33 corporation, the owner or operator of the electric generation facility  
34 denied a tariff pursuant to this section shall have the right to appeal  
35 that decision to the commission.

36 (p) ~~In order to~~ To ensure the safety and reliability of electric  
37 generation facilities, the owner of an electric generation facility  
38 receiving a tariff pursuant to this section shall provide an inspection  
39 and maintenance report to the electrical corporation at least once  
40 every other year. The inspection and maintenance report shall be

1 prepared at the owner's or operator's expense by a  
2 California-licensed contractor who is not the owner or operator of  
3 the electric generation facility. A California-licensed electrician  
4 shall perform the inspection of the electrical portion of the  
5 generation facility.

6 (q) The contract between the electric generation facility  
7 receiving the tariff and the electrical corporation shall contain  
8 provisions that ensure that construction of the electric generating  
9 facility complies with all applicable state and local laws and  
10 building standards, and utility interconnection requirements.

11 (r) (1) All construction and installation of facilities of the  
12 electrical corporation, including at the point of the output meter  
13 or at the transmission or distribution grid, shall be performed only  
14 by that electrical corporation.

15 (2) All interconnection facilities installed on the electrical  
16 corporation's side of the transfer point for electricity between the  
17 electrical corporation and the electrical conductors of the electric  
18 generation facility shall be owned, operated, and maintained only  
19 by the electrical corporation. The ownership, installation, operation,  
20 reading, and testing of revenue metering equipment for electric  
21 generating facilities shall only be performed by the electrical  
22 corporation.