

AMENDED IN ASSEMBLY APRIL 9, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1295

Introduced by Assembly Member Roger Hernández

February 22, 2013

An act to add and repeal Chapter 7.6 (commencing with Section 2831) of Part 2 of Division 1 ~~of, and to repeal Sections 2832 and 3832.5 of,~~ of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, as amended, Roger Hernández. Public utilities: renewable energy: community renewables option.

Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing boards. 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. Under existing law, the local government renewable energy self-generation program authorizes a local government, as defined, to receive a bill credit, as defined, to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account.

The California Renewables Portfolio Standard Program, referred to as the RPS program, requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum

quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. The RPS program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified.

~~This bill would require an electrical corporation and a local publicly owned electric utility to include provisions in its tariff and addenda to a standard contract or allow an electrical generation facility, as defined, to participate in the community renewables option that would allow the facility to assign the payment by the electrical corporation or a local publicly owned electric utility due to that facility to a subscribing customer, as defined, in the form of a bill credit. The bill would, on and after January 1, 2016, require the commission and the governing board of the local publicly owned electric utility to evaluate the demand for the community renewables option. If the commission or the governing board of a local publicly owned electric utility finds that the community renewables option should be discontinued, the bill would make the above provisions applicable to an electrical corporation or that local publicly owned electric utility, respective, be inoperative. *The bill would require a local publicly owned utility, by July 1, 2015, to offer a comparable community renewables option and would require the governing board of the local publicly owned utility to review and approve the community renewables option.* This bill would repeal the provision of the community renewables option on January 1, 2020; unless the commission or the governing board of a local publicly owned electric utility finds that there is an adequate demand for the community renewables option, in which case, the provision of the community renewables option would remain in effect for the electrical corporation or that local publicly owned utility, respectively.~~

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

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

1 SECTION 1. Chapter 7.6 (commencing with Section 2831) is
2 added to Part 2 of Division 1 of the Public Utilities Code, to read:

3
4 CHAPTER 7.6. COMMUNITY RENEWABLES FACILITY
5

6 2831. As used in this article, the following terms mean the
7 following:

8 (a) “Community renewables facility” means an electric
9 generation facility that has elected to participate in the community
10 renewables option.

11 (b) “Community renewables option” means the right of an
12 ~~electrical~~ *electric* generation facility to assign the payment by the
13 electrical corporation ~~or a publicly owned electric utility~~ due to
14 that facility in accordance with this article to subscribing customers
15 of the electrical corporation in the form of a bill credit.

16 (c) ~~Electrical~~ “*Electric* generation facility” means an ~~electrical~~
17 *electric* generation facility located within the service territory of,
18 and developed to sell electricity to, an electrical corporation ~~or a~~
19 ~~local publicly owned electric utility~~ that meets all of the following
20 criteria:

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

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

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

27 (4) Is an eligible renewable energy resource, as defined in
28 Section 399.12.

29 (5) *Meets all the requirements established pursuant to Section*
30 *399.20 that are applicable to electric generation facilities.*

31 (d) “*Feed-in tariff payment*” means the payment that is due to
32 the electric generation facility in accordance with the tariff or
33 standard contract established pursuant to Section 399.20 as
34 described in a monthly total payment.

35 ~~(d)~~

36 (e) “Subscribing customer” means a customer of an electrical
37 corporation ~~or publicly owned utility~~ who has subscribed to the
38 output of a community renewables facility.

1 (e)

2 (f) “Subscription amount” means the percentage of kilowatthours
3 delivered to an electrical corporation ~~or a local publicly owned~~
4 ~~electric utility~~ from a community renewables facility to which a
5 subscribing customer has subscribed.

6 (g) “Unsubscribed output” means the percentage of
7 kilowatthours delivered to an electrical corporation from a
8 community renewables facility to which no subscribing customer
9 has subscribed.

10 2831.5. A community renewables facility is not an electrical
11 corporation, as defined in Section 218 or an electric service
12 provider, as defined in Section 218.3.

13 2832. (a) An electrical corporation shall include provisions in
14 its tariff and an addendum to a standard contract developed
15 pursuant to Section 399.20 to provide for a community renewables
16 option allowing a community renewables facility to assign the
17 payment of electricity by the electrical corporation due to that
18 facility to a subscribing customer in the form of a bill credit.

19 (b) *The subscribing customer’s bill credit shall be calculated*
20 *as the feed-in tariff payment multiplied by the customer’s*
21 *subscription amount.*

22 (b)

23 (c) In approving the tariff, the commission shall ensure all of
24 the following:

25 (1) Customers that do not participate in the community
26 renewables option are indifferent to whether other customers
27 participate in the community renewables option, and no costs are
28 shifted from subscribing customers to nonsubscribing customers.

29 (2) An electric generation facility that has executed a standard
30 contract with an electrical corporation and has begun deliveries
31 pursuant to the contract may, in its sole discretion, elect to become
32 a community renewables facility.

33 (3) (A) The community renewables facility is solely responsible
34 for any and all arrangements, agreements, or disputes with its
35 subscribing customers concerning the community renewables
36 option. The community renewables facility shall communicate, in
37 writing, to the electrical corporation, in a timely manner, to be
38 specified in the electrical corporation’s tariff and contract
39 addendum described in subdivision (c), but not less than once per
40 year, information necessary for the electrical corporation to make

1 payment under the standard contract and addendum to the standard
2 contract that, include, but is not limited to, all of the following:

- 3 (i) The name of each subscribing customer.
- 4 (ii) The service address and service account number of each
5 subscribing customer to which a bill credit should be applied.
- 6 (iii) Each subscribing customer's subscription amount.
- 7 (iv) ~~The percentage of delivered kilowatthours of electricity~~
8 ~~that remains unsubscribed~~ *unsubscribed output*, if any, for which
9 payment should be made directly to the community renewables
10 facility.

11 (B) The electrical corporation shall not be a party to an
12 arrangement or agreement between the community renewables
13 facility and the subscribing customer.

14 (4) The electrical corporation shall continue to bill subscribing
15 customers for all electricity consumed pursuant to each subscribing
16 customer's otherwise applicable tariff. The payments made to a
17 subscribing customer in the form of a bill credit shall be applied
18 to the subscribing customer's monthly bill calculated pursuant to
19 the customer's otherwise applicable tariff.

20 *(5) The electrical corporation shall pay the community*
21 *renewables facility for any unsubscribed output by multiplying the*
22 *unsubscribed output by the feed-in tariff payment.*

23 ~~(5)~~

24 (6) All electricity purchases by an electrical corporation pursuant
25 to this section shall be credited towards the electrical corporation's
26 procurement requirements pursuant to Section 399.15 and shall
27 count toward the electrical corporation's proportionate share of
28 the statewide cap specified in Section 399.20.

29 ~~(e)~~

30 (d) The commission shall not authorize the community
31 renewables option until it has adopted the tariff consistent with
32 this section.

33 ~~(d)~~

34 (e) Notwithstanding ~~paragraph~~ *paragraphs* (1) and (5) of
35 subdivision (c) of Section 2831, the commission may allow other
36 *the* renewable programs adopted by the commission, ~~including~~
37 ~~those programs adopted in commission decisions 10-12-048 and~~
38 ~~09-06-049, as those decisions and programs may be modified from~~
39 ~~time to time, that meet the requirements of subdivisions (a) and~~
40 (b) to include an equivalent community renewables option to

1 *include a community renewables option if the community renewable*
 2 *option meets the requirements of subdivision (c). If the commission*
 3 *elects to establish a community renewables option pursuant to this*
 4 *subdivision, the subscribing customer's monthly bill credit shall*
 5 *be calculated as the amount that would be otherwise be paid to*
 6 *the participating renewable generator in accordance with the*
 7 *power purchase contract between the utility and the renewable*
 8 *generator multiplied by the customer's subscription amount, and*
 9 *all purchases pursuant to this subdivision shall count towards the*
 10 *electrical corporation's proportional share of the program's cap.*

11 ~~(e)~~

12 (f) An electrical corporation shall recover from the community
 13 renewables facility any costs of implementing the community
 14 renewables option reasonably attributable to the community
 15 facility. Any implementation costs not reasonably attributable to
 16 the community renewables facility shall ~~not~~ be recovered from the
 17 ratepayers, as determined by the commission.

18 ~~(f)~~

19 (g) If a customer participates in direct transactions pursuant to
 20 paragraph (1) of subdivision (b) of Section 365 or Section 365.1,
 21 the electrical corporation that provides distribution service for the
 22 customer is not obligated to allow that customer to participate in
 23 a community renewables option.

24 ~~(g)~~

25 (h) On or before July 1, 2015, an energy service provider or
 26 community choice aggregator shall offer a comparable community
 27 renewables option *of eligible renewable energy resources as*
 28 *defined in Section 399.12* in accordance with the procurement
 29 practices of that load serving entity. The commission shall review
 30 and approve the community renewables option proposed by the
 31 load serving entity to ensure that it is comparable to the
 32 requirements specified in subdivision ~~(b)~~ (c).

33 ~~(h)~~

34 (i) (1) On and after January 1, 2016, the commission shall
 35 evaluate the demand for the community renewables option and
 36 consider whether to continue offering a community renewables
 37 option.

38 (2) If the commission determines that the community renewables
 39 option should terminate, the commission shall issue an order to
 40 that effect and deliver a copy of the order to the Secretary of State.

1 The section shall become inoperative on the effective date of the
2 order.

3 (i) ~~(1) Except as provided in paragraph (2), this section shall~~
4 ~~remain in effect only until January 1, 2020, and as of that date is~~
5 ~~repealed, unless a later enacted statute, that is enacted before~~
6 ~~January 1, 2020, deletes or extends that date.~~

7 ~~(2) Notwithstanding paragraph (1), if, before January 1, 2020,~~
8 ~~the commission finds that there is adequate demand to continue~~
9 ~~offering a community renewables option, this section shall remain~~
10 ~~in effect. The commission shall issue an order finding an adequate~~
11 ~~demand to continue offering a community renewables option and~~
12 ~~deliver a copy of the order to the Secretary of State.~~

13 ~~2832.5. (a) A local publicly owned electric utility shall include~~
14 ~~provisions in its tariff and an addendum to a standard contract~~
15 ~~developed pursuant to Section 399.32 to provide for a community~~
16 ~~renewables option allowing a community renewables facility to~~
17 ~~assign the payment of electricity by the local publicly owned~~
18 ~~electric utility due to that facility to a subscribing customer in the~~
19 ~~form of a bill credit.~~

20 ~~(b) The governing board of the local publicly owned electric~~
21 ~~utility shall ensure all of the following:~~

22 ~~(1) Customers that do not participate in the community~~
23 ~~renewables option are indifferent to whether other customers~~
24 ~~participate in the community renewables option, and no costs are~~
25 ~~shifted from subscribing customers to nonsubscribing customers.~~

26 ~~(2) An electric generation facility that has executed a standard~~
27 ~~contract with a local publicly owned electric utility and has begun~~
28 ~~deliveries pursuant to the contract may, in its sole discretion, elect~~
29 ~~to become a community renewables facility.~~

30 ~~(3) (A) The community renewables facility is solely responsible~~
31 ~~for any and all arrangements, agreements, or disputes with its~~
32 ~~subscribing customers concerning the community renewables~~
33 ~~option. The community renewables facility shall communicate, in~~
34 ~~writing, to the local publicly owned electric utility, information~~
35 ~~necessary for the local publicly owned electric utility to make~~
36 ~~payment under the standard contract and addendum to the standard~~
37 ~~contract that, include, but is not limited to, all of the following:~~

38 ~~(i) The name of each subscribing customer.~~

39 ~~(ii) The service address and service account number of each~~
40 ~~subscribing customer to which a bill credit should be applied.~~

1 ~~(iii) Each subscribing customer's subscription amount.~~
2 ~~(iv) The percentage of delivered kilowatthours of electricity~~
3 ~~that remain unsubscribed, if any, for which payment should be~~
4 ~~made directly to the community renewables facility.~~
5 ~~(B) The local publicly owned electric utility shall not be a party~~
6 ~~to an arrangement or agreement between the community~~
7 ~~renewables facility and the subscribing customer.~~
8 ~~(4) The electrical corporation shall continue to bill subscribing~~
9 ~~customers for all electricity consumed pursuant to each subscribing~~
10 ~~customer's otherwise applicable tariff. The payments made to a~~
11 ~~subscribing customer in the form of a bill credit shall be applied~~
12 ~~to the subscribing customer's monthly bill calculated pursuant to~~
13 ~~the customer's otherwise applicable tariff.~~
14 ~~(5) All electricity purchases by a local publicly owned electric~~
15 ~~utility pursuant this section shall be credited towards the local~~
16 ~~publicly owned electric utility's procurement requirements pursuant~~
17 ~~to Section 399.30.~~
18 ~~(e) The local publicly owned electric utility may allow other~~
19 ~~renewable programs it has adopted that meet the requirements of~~
20 ~~subdivisions (a) and (b) to include an equivalent community~~
21 ~~renewables option.~~
22 ~~(d) (1) On and after January 1, 2016, the governing board of a~~
23 ~~local publicly owned electric utility shall evaluate the demand for~~
24 ~~the community renewables option and consider whether to continue~~
25 ~~offering a community renewables option.~~
26 ~~(2) If the governing board of a local publicly owned electric~~
27 ~~utility determines the offering of a community renewables option~~
28 ~~should terminate, the governing board shall adopt a resolution to~~
29 ~~that effect and deliver a copy of the resolution to the Secretary of~~
30 ~~State. This section shall not apply to that local publicly owned~~
31 ~~electric utility on the effective date of the resolution.~~
32 ~~(e) (1) Except as provided in paragraph (1), this section shall~~
33 ~~remain in effect only until January 1, 2020, and as of that date is~~
34 ~~repealed, unless a later enacted statute, that is enacted before~~
35 ~~January 1, 2020, deletes or extends that date.~~
36 ~~(2) Notwithstanding paragraph (1), if, before January 1, 2020,~~
37 ~~the governing board of a local publicly owned electric utility finds~~
38 ~~that there is adequate demand to continue offering a community~~
39 ~~renewables option, this section shall remain in effect for that local~~
40 ~~publicly owned electric utility. The governing board shall adopt a~~

1 ~~resolution finding and adequate demand to continue offering a~~
2 ~~community renewables option and deliver a copy of the resolution~~
3 ~~to the Secretary of State.~~

4 2832.5. *On or before July 1, 2015, a local publicly owned*
5 *electric utility required to comply with Section 399.32 shall offer*
6 *a comparable community renewables option for an electric*
7 *generation facility as defined in Section 399.32. The governing*
8 *board of the local publicly owned electric utility shall review and*
9 *approve the community renewables option.*

10 2833. ~~Except as provided in paragraph (2) of subdivision (i)~~
11 ~~of Section 2832 or paragraph (2) of subdivision (e) of Section~~
12 ~~2832.5, this~~ *This chapter shall remain in effect only until January*
13 *1, 2020, and as of that date is repealed, unless a later enacted*
14 *statute, that is enacted before January 1, 2020, deletes or extends*
15 *that date.*

O