

AMENDED IN SENATE JULY 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1409

Introduced by Committee on Utilities and Commerce (Bradford (Chair), Bonilla, Buchanan, Fong, Garcia, Quirk, Rendon, Skinner, and Williams)

March 13, 2013

An act to amend Sections 398.4, 399.20, 399.22, 1904, and 2827 of, ~~and to amend and renumber Section 387.8 of, and to repeal Section 1906 of,~~ the Public Utilities Code, relating to ~~energy~~ *public utilities*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1409, as amended, Committee on Utilities and Commerce. ~~Energy–Public utilities: electricity.~~

(1) Under existing law, the Public Utilities Commission (~~commission~~) has regulatory authority over public utilities, including electrical corporations, as defined. Decisions of the PUC adopted the California Solar Initiative. Existing law requires the governing body of a local publicly owned electric utility that sells electricity at retail to adopt, implement, and finance a solar initiative program for the purpose of investing in, and encouraging the increased installation of, residential and commercial solar energy systems.

This bill would move the above-described requirements for local publicly owned electric utilities from an area of the Public Utilities Code pertaining to electrical restructuring, to the area of the code pertaining to the implementation of the California Solar Initiative.

(2) Existing law allows the commission to charge and collect a fee of \$75 for filing each application for a certificate of public convenience

and necessity, or for the mortgage, lease, transfer, or assignment of a certificate.

~~This bill would instead change that amount to a fee to be determined by commission rule or order and adjusted as appropriate based on the Consumer Price Index.~~ *require the fee to not exceed the reasonable costs to the commission for filing these applications. The bill would authorize the fee in an amount not to exceed \$500 and would authorize the commission to adjust this fee based on the Consumer Price Index.*

(3) Existing law establishes the Public Utilities Commission Utilities Reimbursement Account in the General Fund and generally provides that all fees and charges collected under the Public Utilities Code, except penalties, from each public utility be paid into the fund. Other existing law provides that specified fees, including, but not limited to, the fee for filing each application for a certificate of public convenience and necessity, or for the mortgage, lease, transfer, or assignment of a certificate, are required to be paid at least once each month into the State Treasury to the General Fund.

This bill would repeal the provision that requires certain fees to be paid at least once each month into the State Treasury to the General Fund.

~~This~~

(4) This bill would also make nonsubstantive changes and other conforming and corrective changes.

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. Section 387.8 of the Public Utilities Code is
- 2 amended and renumbered to read:
- 3 2855. Notwithstanding paragraphs (2) and (5) of subdivision
- 4 (d) of Section 2854, a local publicly owned electric utility may
- 5 adopt, implement, and finance a solar initiative program otherwise
- 6 in accordance with that section, using monetary incentives
- 7 authorized by subdivision (b) of Section 2854, to residential and
- 8 business consumers where consumers offset part or all of their
- 9 electricity demand with electricity generated by a solar energy
- 10 system not located on the premises of the consumer, if all of the
- 11 following requirements are met:

1 (a) The solar energy system meets all of the following
2 conditions:

3 (1) It is located within the service territory of the local publicly
4 owned electric utility.

5 (2) It has a capacity of no more than five megawatts.

6 (3) It is interconnected to the local publicly owned electric
7 utility's system at the distribution level.

8 (b) The local publicly owned electric utility meets all of the
9 following conditions:

10 (1) It provides monetary incentives authorized by Section 2854
11 for not more than the first megawatt of generating capacity of each
12 solar energy system.

13 (2) It has contracted to purchase the total electricity produced
14 by the solar energy system or owns the solar energy system.

15 (3) It provides no greater incentive per watt for the solar energy
16 system than provided for by systems that participate in the
17 applicable solar initiative program established under Section 2854.

18 (4) It has received approval for the solar energy system from
19 its governing board at a publicly noticed and held meeting.

20 (c) The total megawatt capacity of solar energy systems eligible
21 for a local publicly owned electric utility program under this section
22 is both of the following:

23 (1) Not more than the total megawatt capacity of the combined
24 residential and commercial solar energy systems installed in the
25 service area of the local publicly owned electric utility after July
26 1, 2010, that participate in the applicable solar initiative programs
27 established under Section 2854.

28 (2) Not more than 20 percent of the proportionate amount for
29 the local publicly owned electric utility of the overall 3,000
30 megawatt state goal set forth in Section 2854, based on the
31 percentage of the total statewide load served by that entity.

32 SEC. 2. Section 398.4 of the Public Utilities Code is amended
33 to read:

34 398.4. (a) Every retail supplier that makes an offering to sell
35 electricity that is consumed in California shall disclose its
36 electricity sources for the previous calendar year.

37 (b) The disclosures required by this section shall be made to
38 potential end-use consumers in all product-specific written
39 promotional materials that are distributed to consumers by either
40 printed or electronic means, including the retail supplier's Internet

1 Web site, if one exists, except that advertisements and notices in
 2 general circulation media shall not be subject to this requirement.

3 (c) The disclosures required by this section shall be made
 4 annually to end-use consumers of the offered electricity. The annual
 5 disclosure shall be made by the end of the first complete billing
 6 cycle for the third quarter of the year, and shall be consistent with
 7 information provided to the Energy Commission pursuant to
 8 Section 398.5.

9 (d) The disclosures required by this section shall be made
 10 separately for each offering made by the retail supplier.

11 (e) On or before January 1, 1998, the Energy Commission shall
 12 specify guidelines for the format and means for disclosure required
 13 by Section 398.3 and this section, based on the requirements of
 14 this article and subject to public hearing.

15 (f) The costs of making the disclosures required by this section
 16 shall be considered to be generation related.

17 (g) The disclosures required by this section shall comply with
 18 the following:

19 (1) A retail supplier’s disclosure of its electricity sources shall
 20 be expressed as a percentage of annual sales derived from each of
 21 the following categories:

22 (A) Unspecified sources of electricity.

23 (B) Specific purchases.

24 (2) A retail supplier’s disclosure of its electricity sources shall
 25 also separately identify total California system electricity, which
 26 is the sum of all in-state generation and net electricity imports by
 27 fuel type.

28 (h) Each of the categories specified in subdivision (g) shall be
 29 additionally identified as a percentage of annual sales that is
 30 derived from the following fuels or sources of energy:

31 (1) Coal.

32 (2) Large hydroelectric (greater than 30 megawatts).

33 (3) Natural gas.

34 (4) Nuclear.

35 (5) Eligible renewable energy resources pursuant to the
 36 California Renewables Portfolio Standard Program (Article 16
 37 (commencing with Section 399.11)), including any of the
 38 following:

39 (A) Biomass and biowaste.

40 (B) Geothermal.

1 (C) Eligible hydroelectric.

2 (D) Solar.

3 (E) Wind.

4 (6) Other categories as determined by the Energy Commission.

5 (i) All electricity sources disclosed as specific purchases shall
6 meet the requirements of subdivision (c) of Section 398.2.

7 (j) Specific purchases identified pursuant to this section shall
8 be from sources connected to the Western Electricity Coordinating
9 Council interconnected grid.

10 (k) Compliance with this section by a local publicly owned
11 electric utility shall constitute compliance with subdivision (l) of
12 Section 399.30.

13 (l) This section shall not apply to generators providing electric
14 service onsite, under an over-the-fence transaction as described in
15 Section 218, or to an affiliate or affiliates, as defined in subdivision
16 (a) of Section 372.

17 SEC. 3. Section 399.20 of the Public Utilities Code is amended
18 to read:

19 399.20. (a) It is the policy of this state and the intent of the
20 Legislature to encourage electrical generation from eligible
21 renewable energy resources.

22 (b) As used in this section, “electric generation facility” means
23 an electric generation facility located within the service territory
24 of, and developed to sell electricity to, an electrical corporation
25 that meets all of the following criteria:

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

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

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

32 (4) Is an eligible renewable energy resource.

33 (c) Every electrical corporation shall file with the commission
34 a standard tariff for electricity purchased from an electric
35 generation facility. The commission may modify or adjust the
36 requirements of this section for any electrical corporation with less
37 than 100,000 service connections, as individual circumstances
38 merit.

39 (d) (1) The tariff shall provide for payment for every
40 kilowatthour of electricity purchased from an electric generation

1 facility for a period of 10, 15, or 20 years, as authorized by the
2 commission. The payment shall be the market price determined
3 by the commission pursuant to paragraph (2) and shall include all
4 current and anticipated environmental compliance costs, including,
5 but not limited to, mitigation of emissions of greenhouse gases
6 and air pollution offsets associated with the operation of new
7 generating facilities in the local air pollution control or air quality
8 management district where the electric generation facility is
9 located.

10 (2) The commission shall establish a methodology to determine
11 the market price of electricity for terms corresponding to the length
12 of contracts with an electric generation facility, in consideration
13 of the following:

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

17 (B) The long-term ownership, operating, and fixed-price fuel
18 costs associated with fixed-price electricity from new generating
19 facilities.

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

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

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

29 (e) An electrical corporation shall provide expedited
30 interconnection procedures to an electric generation facility located
31 on a distribution circuit that generates electricity at a time and in
32 a manner so as to offset the peak demand on the distribution circuit,
33 if the electrical corporation determines that the electric generation
34 facility will not adversely affect the distribution grid. The
35 commission shall consider and may establish a value for an electric
36 generation facility located on a distribution circuit that generates
37 electricity at a time and in a manner so as to offset the peak demand
38 on the distribution circuit.

39 (f) (1) An electrical corporation shall make the tariff available
40 to the owner or operator of an electric generation facility within

1 the service territory of the electrical corporation, upon request, on
2 a first-come-first-served basis, until the electrical corporation meets
3 its proportionate share of a statewide cap of 750 megawatts
4 cumulative rated generation capacity served under this section and
5 Section 399.32. The proportionate share shall be calculated based
6 on the ratio of the electrical corporation's peak demand compared
7 to the total statewide peak demand.

8 (2) By June 1, 2013, the commission shall, in addition to the
9 750 megawatts identified in paragraph (1), direct the electrical
10 corporations to collectively procure at least 250 megawatts of
11 cumulative rated generating capacity from developers of bioenergy
12 projects that commence operation on or after June 1, 2013. The
13 commission shall, for each electrical corporation, allocate shares
14 of the additional 250 megawatts based on the ratio of each electrical
15 corporation's peak demand compared to the total statewide peak
16 demand. In implementing this paragraph, the commission shall do
17 all of the following:

18 (A) Allocate the 250 megawatts identified in this paragraph
19 among the electrical corporations based on the following
20 categories:

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

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

24 (iii) For bioenergy using byproducts of sustainable forest
25 management, 50 megawatts. Allocations under this category shall
26 be determined based on the proportion of bioenergy that sustainable
27 forest management providers derive from sustainable forest
28 management in fire threat treatment areas, as designated by the
29 Department of Forestry and Fire Protection.

30 (B) Direct the electrical corporations to develop standard
31 contract terms and conditions that reflect the operational
32 characteristics of the projects, and to provide a streamlined
33 contracting process.

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

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

4 (3) (A) The commission, in consultation with the State Energy
5 Resources Conservation and Development Commission, the State
6 Air Resources Board, the Department of Forestry and Fire
7 Protection, the Department of Food and Agriculture, and the
8 Department of Resources Recycling and Recovery, may review
9 the allocations of the 250 additional megawatts identified in
10 paragraph (2) to determine if those allocations are appropriate.

11 (B) If the commission finds that the allocations of the 250
12 additional megawatts identified in paragraph (2) are not
13 appropriate, the commission may reallocate the 250 megawatts
14 among the categories established in subparagraph (A) of paragraph
15 (2).

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

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

21 (h) Every kilowatthour of electricity purchased from an electric
22 generation facility shall count toward meeting the electrical
23 corporation’s renewables portfolio standard annual procurement
24 targets for purposes of paragraph (1) of subdivision (b) of Section
25 399.15.

26 (i) The physical generating capacity of an electric generation
27 facility shall count toward the electrical corporation’s resource
28 adequacy requirement for purposes of Section 380.

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

34 (2) The commission may reduce the three megawatt capacity
35 limitation of paragraph (1) of subdivision (b) if the commission
36 finds that a reduced capacity limitation is necessary to maintain
37 system reliability within that electrical corporation’s service
38 territory.

39 (k) (1) Any owner or operator of an electric generation facility
40 that received ratepayer-funded incentives in accordance with

1 Section 379.6 of this code, or with Section 25782 of the Public
2 Resources Code, and participated in a net metering program
3 pursuant to Sections 2827, 2827.9, and 2827.10 of this code prior
4 to January 1, 2010, shall be eligible for a tariff or standard contract
5 filed by an electrical corporation pursuant to this section.

6 (2) In establishing the tariffs or standard contracts pursuant to
7 this section, the commission shall consider ratepayer-funded
8 incentive payments previously received by the generation facility
9 pursuant to Section 379.6 of this code or Section 25782 of the
10 Public Resources Code. The commission shall require
11 reimbursement of any funds received from these incentive
12 programs to an electric generation facility, in order for that facility
13 to be eligible for a tariff or standard contract filed by an electrical
14 corporation pursuant to this section, unless the commission
15 determines ratepayers have received sufficient value from the
16 incentives provided to the facility based on how long the project
17 has been in operation and the amount of renewable electricity
18 previously generated by the facility.

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

22 (l) An owner or operator of an electric generation facility
23 electing to receive service under a tariff or contract approved by
24 the commission shall continue to receive service under the tariff
25 or contract until either of the following occurs:

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

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

31 (m) Within 10 days of receipt of a request for a tariff pursuant
32 to this section from an owner or operator of an electric generation
33 facility, the electrical corporation that receives the request shall
34 post a copy of the request on its Internet Web site. The information
35 posted on the Internet Web site shall include the name of the city
36 in which the facility is located, but information that is proprietary
37 and confidential, including, but not limited to, address information
38 beyond the name of the city in which the facility is located, shall
39 be redacted.

1 (n) An electrical corporation may deny a tariff request pursuant
2 to this section if the electrical corporation makes any of the
3 following findings:

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

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

8 (3) The electric generation facility does not meet all applicable
9 state and local laws and building standards and utility
10 interconnection requirements.

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

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

18 (p) In order to ensure the safety and reliability of electric
19 generation facilities, the owner of an electric generation facility
20 receiving a tariff pursuant to this section shall provide an inspection
21 and maintenance report to the electrical corporation at least once
22 every other year. The inspection and maintenance report shall be
23 prepared at the owner's or operator's expense by a
24 California-licensed contractor who is not the owner or operator of
25 the electric generation facility. A California-licensed electrician
26 shall perform the inspection of the electrical portion of the
27 generation facility.

28 (q) The contract between the electric generation facility
29 receiving the tariff and the electrical corporation shall contain
30 provisions that ensure that construction of the electric generating
31 facility complies with all applicable state and local laws and
32 building standards, and utility interconnection requirements.

33 (r) (1) All construction and installation of facilities of the
34 electrical corporation, including at the point of the output meter
35 or at the transmission or distribution grid, shall be performed only
36 by that electrical corporation.

37 (2) All interconnection facilities installed on the electrical
38 corporation's side of the transfer point for electricity between the
39 electrical corporation and the electrical conductors of the electric
40 generation facility shall be owned, operated, and maintained only

1 by the electrical corporation. The ownership, installation, operation,
2 reading, and testing of revenue metering equipment for electric
3 generating facilities shall only be performed by the electrical
4 corporation.

5 SEC. 4. Section 399.22 of the Public Utilities Code is amended
6 to read:

7 399.22. (a) For purposes of this section, “state agency” means
8 any state agency, board, department, or commission, including the
9 entities specified in subdivision (a) of Section 15814.12 of the
10 Government Code.

11 (b) A state agency generating electricity from an electric
12 generation facility, as defined in Section 399.20 or 399.32, that
13 operates under a tariff adopted pursuant to either of those sections,
14 and that is owned by, operated by, or on property under the control
15 of, the state agency shall take the total annual amount of
16 kilowatthours exported to the grid into consideration when
17 determining whether the state agency has achieved the policy goals
18 and objectives established by law for the state agency.

19 SEC. 5. Section 1904 of the Public Utilities Code is amended
20 to read:

21 1904. The commission shall also charge and collect the
22 following fees:

23 (a) Except as otherwise provided in Section 1036 for filing each
24 application for a certificate of public convenience and necessity,
25 or for the mortgage, lease, transfer, or assignment thereof, ~~a fee~~
26 ~~to be determined by commission rule or order and adjusted as~~
27 ~~appropriate based on the Consumer Price Index.~~ *an amount not to*
28 *exceed five hundred dollars (\$500). The commission may adjust*
29 *this fee based on the Consumer Price Index. The fee charged and*
30 *collected pursuant to this subdivision shall not exceed the*
31 *reasonable costs to the commission for filing the application.*

32 (b) For a certificate authorizing an issue of bonds, notes, or
33 other evidences of indebtedness, two dollars (\$2) for each one
34 thousand dollars (\$1,000) of the face value of the authorized issue
35 or fraction thereof up to one million dollars (\$1,000,000), one
36 dollar (\$1) for each one thousand dollars (\$1,000) over one million
37 dollars (\$1,000,000) and up to ten million dollars (\$10,000,000),
38 and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over
39 ten million dollars (\$10,000,000), with a minimum fee in any case
40 of fifty dollars (\$50). No fee need be paid on such portion of any

1 such issue as may be used to guarantee, take over, refund,
2 discharge, or retire any stock, bond, note or other evidence of
3 indebtedness on which a fee has theretofore been paid to the
4 commission. If the commission modified the amount of the issue
5 requested in any case and the applicant thereupon elects not to
6 avail itself of the commission's authorization, no fee shall be paid,
7 and if such fee is paid prior to the issuance of such certificate by
8 the commission, such fee shall be returned.

9 *SEC. 6. Section 1906 of the Public Utilities Code is repealed.*

10 ~~1906. All fees collected under this chapter shall be paid, except~~
11 ~~as provided in Chapter 6 (commencing with Section 5001) of~~
12 ~~Division 2, at least once each month into the State Treasury to the~~
13 ~~credit of the General Fund.~~

14 ~~SEC. 6.~~

15 *SEC. 7. Section 2827 of the Public Utilities Code is amended*
16 *to read:*

17 2827. (a) The Legislature finds and declares that a program
18 to provide net energy metering combined with net surplus
19 compensation, co-energy metering, and wind energy co-metering
20 for eligible customer-generators is one way to encourage substantial
21 private investment in renewable energy resources, stimulate in-state
22 economic growth, reduce demand for electricity during peak
23 consumption periods, help stabilize California's energy supply
24 infrastructure, enhance the continued diversification of California's
25 energy resource mix, reduce interconnection and administrative
26 costs for electricity suppliers, and encourage conservation and
27 efficiency.

28 (b) As used in this section, the following terms have the
29 following meanings:

30 (1) "Co-energy metering" means a program that is the same in
31 all other respects as a net energy metering program, except that
32 the local publicly owned electric utility has elected to apply a
33 generation-to-generation energy and time-of-use credit formula
34 as provided in subdivision (i).

35 (2) "Electrical cooperative" means an electrical cooperative as
36 defined in Section 2776.

37 (3) "Electric utility" means an electrical corporation, a local
38 publicly owned electric utility, or an electrical cooperative, or any
39 other entity, except an electric service provider, that offers electrical
40 service. This section shall not apply to a local publicly owned

1 electric utility that serves more than 750,000 customers and that
2 also conveys water to its customers.

3 (4) “Eligible customer-generator” means a residential customer,
4 small commercial customer as defined in subdivision (h) of Section
5 331, or commercial, industrial, or agricultural customer of an
6 electric utility, who uses a renewable electrical generation facility,
7 or a combination of those facilities, with a total capacity of not
8 more than one megawatt, that is located on the customer’s owned,
9 leased, or rented premises, and is interconnected and operates in
10 parallel with the electrical grid, and is intended primarily to offset
11 part or all of the customer’s own electrical requirements.

12 (5) “Renewable electrical generation facility” means a facility
13 that generates electricity from a renewable source listed in
14 paragraph (1) of subdivision (a) of Section 25741 of the Public
15 Resources Code. A small hydroelectric generation facility is not
16 an eligible renewable electrical generation facility if it will cause
17 an adverse impact on instream beneficial uses or cause a change
18 in the volume or timing of streamflow.

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

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

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

36 (10) “Ratemaking authority” means, for an electrical
37 corporation, the commission, for an electrical cooperative, its
38 ratesetting body selected by its shareholders or members, and for
39 a local publicly owned electric utility, the local elected body
40 responsible for setting the rates of the local publicly owned utility.

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

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

1 credit provided by the electric utility, or pursuant to any
2 governmental program, including rebates and incentives provided
3 pursuant to the California Solar Initiative.

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

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

21 (B) An electric service provider operating pursuant to Section
22 394 shall make available to the ratemaking authority the
23 information required by this paragraph for each eligible
24 customer-generator that is their customer for each service area of
25 an electrical corporation, local publicly owned electrical utility,
26 or electrical cooperative, in which the eligible customer-generator
27 has net energy metering.

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

34 (4) An electric utility is not obligated to provide net energy
35 metering to additional eligible customer-generators in its service
36 area when the combined total peak demand of all electricity used
37 by eligible customer-generators served by all the electric utilities
38 in that service area furnishing net energy metering to eligible
39 customer-generators exceeds 5 percent of the aggregate customer
40 peak demand of those electric utilities.

1 (d) Every electric utility shall make all necessary forms and
2 contracts for net energy metering and net surplus electricity
3 compensation service available for download from an Internet
4 Web site.

5 (e) (1) Every electric utility shall ensure that requests for
6 establishment of net energy metering and net surplus electricity
7 compensation are processed in a time period not exceeding that
8 for similarly situated customers requesting new electric service,
9 but not to exceed 30 working days from the date it receives a
10 completed application form for net energy metering service or net
11 surplus electricity compensation, including a signed interconnection
12 agreement from an eligible customer-generator and the electric
13 inspection clearance from the governmental authority having
14 jurisdiction.

15 (2) Every electric utility shall ensure that requests for an
16 interconnection agreement from an eligible customer-generator
17 are processed in a time period not to exceed 30 working days from
18 the date it receives a completed application form from the eligible
19 customer-generator for an interconnection agreement.

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

25 (f) (1) If a customer participates in direct transactions pursuant
26 to paragraph (1) of subdivision (b) of Section 365, or Section 365.1,
27 with an electric service provider that does not provide distribution
28 service for the direct transactions, the electric utility that provides
29 distribution service for the eligible customer-generator is not
30 obligated to provide net energy metering or net surplus electricity
31 compensation to the customer.

32 (2) If a customer participates in direct transactions pursuant to
33 paragraph (1) of subdivision (b) of Section 365 with an electric
34 service provider, and the customer is an eligible
35 customer-generator, the electric utility that provides distribution
36 service for the direct transactions may recover from the customer's
37 electric service provider the incremental costs of metering and
38 billing service related to net energy metering and net surplus
39 electricity compensation in an amount set by the ratemaking
40 authority.

1 (g) Except for the time-variant kilowatthour pricing portion of
2 any tariff adopted by the commission pursuant to paragraph (4) of
3 subdivision (a) of Section 2851, each net energy metering contract
4 or tariff shall be identical, with respect to rate structure, all retail
5 rate components, and any monthly charges, to the contract or tariff
6 to which the same customer would be assigned if the customer did
7 not use a renewable electrical generation facility, except that
8 eligible customer-generators shall not be assessed standby charges
9 on the electrical generating capacity or the kilowatthour production
10 of a renewable electrical generation facility. The charges for all
11 retail rate components for eligible customer-generators shall be
12 based exclusively on the customer-generator's net kilowatthour
13 consumption over a 12-month period, without regard to the eligible
14 customer-generator's choice as to from whom it purchases
15 electricity that is not self-generated. Any new or additional demand
16 charge, standby charge, customer charge, minimum monthly
17 charge, interconnection charge, or any other charge that would
18 increase an eligible customer-generator's costs beyond those of
19 other customers who are not eligible customer-generators in the
20 rate class to which the eligible customer-generator would otherwise
21 be assigned if the customer did not own, lease, rent, or otherwise
22 operate a renewable electrical generation facility is contrary to the
23 intent of this section, and shall not form a part of net energy
24 metering contracts or tariffs.

25 (h) For eligible customer-generators, the net energy metering
26 calculation shall be made by measuring the difference between
27 the electricity supplied to the eligible customer-generator and the
28 electricity generated by the eligible customer-generator and fed
29 back to the electrical grid over a 12-month period. The following
30 rules shall apply to the annualized net metering calculation:

31 (1) The eligible residential or small commercial
32 customer-generator, at the end of each 12-month period following
33 the date of final interconnection of the eligible
34 customer-generator's system with an electric utility, and at each
35 anniversary date thereafter, shall be billed for electricity used
36 during that 12-month period. The electric utility shall determine
37 if the eligible residential or small commercial customer-generator
38 was a net consumer or a net surplus customer-generator during
39 that period.

1 (2) At the end of each 12-month period, where the electricity
2 supplied during the period by the electric utility exceeds the
3 electricity generated by the eligible residential or small commercial
4 customer-generator during that same period, the eligible residential
5 or small commercial customer-generator is a net electricity
6 consumer and the electric utility shall be owed compensation for
7 the eligible customer-generator's net kilowatthour consumption
8 over that 12-month period. The compensation owed for the eligible
9 residential or small commercial customer-generator's consumption
10 shall be calculated as follows:

11 (A) For all eligible customer-generators taking service under
12 contracts or tariffs employing "baseline" and "over baseline" rates,
13 any net monthly consumption of electricity shall be calculated
14 according to the terms of the contract or tariff to which the same
15 customer would be assigned to, or be eligible for, if the customer
16 was not an eligible customer-generator. If those same
17 customer-generators are net generators over a billing period, the
18 net kilowatthours generated shall be valued at the same price per
19 kilowatthour as the electric utility would charge for the baseline
20 quantity of electricity during that billing period, and if the number
21 of kilowatthours generated exceeds the baseline quantity, the excess
22 shall be valued at the same price per kilowatthour as the electric
23 utility would charge for electricity over the baseline quantity during
24 that billing period.

25 (B) For all eligible customer-generators taking service under
26 contracts or tariffs employing time-of-use rates, any net monthly
27 consumption of electricity shall be calculated according to the
28 terms of the contract or tariff to which the same customer would
29 be assigned, or be eligible for, if the customer was not an eligible
30 customer-generator. When those same customer-generators are
31 net generators during any discrete time-of-use period, the net
32 kilowatthours produced shall be valued at the same price per
33 kilowatthour as the electric utility would charge for retail
34 kilowatthour sales during that same time-of-use period. If the
35 eligible customer-generator's time-of-use electrical meter is unable
36 to measure the flow of electricity in two directions, paragraph (1)
37 of subdivision (c) shall apply.

38 (C) For all eligible residential and small commercial
39 customer-generators and for each billing period, the net balance
40 of moneys owed to the electric utility for net consumption of

1 electricity or credits owed to the eligible customer-generator for
2 net generation of electricity shall be carried forward as a monetary
3 value until the end of each 12-month period. For all eligible
4 commercial, industrial, and agricultural customer-generators, the
5 net balance of moneys owed shall be paid in accordance with the
6 electric utility's normal billing cycle, except that if the eligible
7 commercial, industrial, or agricultural customer-generator is a net
8 electricity producer over a normal billing cycle, any excess
9 kilowatthours generated during the billing cycle shall be carried
10 over to the following billing period as a monetary value, calculated
11 according to the procedures set forth in this section, and appear as
12 a credit on the eligible commercial, industrial, or agricultural
13 customer-generator's account, until the end of the annual period
14 when paragraph (3) shall apply.

15 (3) At the end of each 12-month period, where the electricity
16 generated by the eligible customer-generator during the 12-month
17 period exceeds the electricity supplied by the electric utility during
18 that same period, the eligible customer-generator is a net surplus
19 customer-generator and the electric utility, upon an affirmative
20 election by the net surplus customer-generator, shall either (A)
21 provide net surplus electricity compensation for any net surplus
22 electricity generated during the prior 12-month period, or (B) allow
23 the net surplus customer-generator to apply the net surplus
24 electricity as a credit for kilowatthours subsequently supplied by
25 the electric utility to the net surplus customer-generator. For an
26 eligible customer-generator that does not affirmatively elect to
27 receive service pursuant to net surplus electricity compensation,
28 the electric utility shall retain any excess kilowatthours generated
29 during the prior 12-month period. The eligible customer-generator
30 not affirmatively electing to receive service pursuant to net surplus
31 electricity compensation shall not be owed any compensation for
32 the net surplus electricity unless the electric utility enters into a
33 purchase agreement with the eligible customer-generator for those
34 excess kilowatthours. Every electric utility shall provide notice to
35 eligible customer-generators that they are eligible to receive net
36 surplus electricity compensation for net surplus electricity, that
37 they must elect to receive net surplus electricity compensation,
38 and that the 12-month period commences when the electric utility
39 receives the eligible customer-generator's election. For an electric
40 utility that is an electrical corporation or electrical cooperative,

1 the commission may adopt requirements for providing notice and
2 the manner by which eligible customer-generators may elect to
3 receive net surplus electricity compensation.

4 (4) (A) An eligible customer-generator with multiple meters
5 may elect to aggregate the electrical load of the meters located on
6 the property where the renewable electrical generation facility is
7 located and on all property adjacent or contiguous to the property
8 on which the renewable electrical generation facility is located, if
9 those properties are solely owned, leased, or rented by the eligible
10 customer-generator. If the eligible customer-generator elects to
11 aggregate the electric load pursuant to this paragraph, the electric
12 utility shall use the aggregated load for the purpose of determining
13 whether an eligible customer-generator is a net consumer or a net
14 surplus customer-generator during a 12-month period.

15 (B) If an eligible customer-generator chooses to aggregate
16 pursuant to subparagraph (A), the eligible customer-generator shall
17 be permanently ineligible to receive net surplus electricity
18 compensation, and the electric utility shall retain any kilowatthours
19 in excess of the eligible customer-generator's aggregated electrical
20 load generated during the 12-month period.

21 (C) If an eligible customer-generator with multiple meters elects
22 to aggregate the electrical load of those meters pursuant to
23 subparagraph (A), and different rate schedules are applicable to
24 service at any of those meters, the electricity generated by the
25 renewable electrical generation facility shall be allocated to each
26 of the meters in proportion to the electrical load served by those
27 meters. For example, if the eligible customer-generator receives
28 electric service through three meters, two meters being at an
29 agricultural rate that each provide service to 25 percent of the
30 customer's total load, and a third meter, at a commercial rate, that
31 provides service to 50 percent of the customer's total load, then
32 50 percent of the electrical generation of the eligible renewable
33 generation facility shall be allocated to the third meter that provides
34 service at the commercial rate and 25 percent of the generation
35 shall be allocated to each of the two meters providing service at
36 the agricultural rate. This proportionate allocation shall be
37 computed each billing period.

38 (D) This paragraph shall not become operative for an electrical
39 corporation unless the commission determines that allowing
40 eligible customer-generators to aggregate their load from multiple

1 meters will not result in an increase in the expected revenue
2 obligations of customers who are not eligible customer-generators.
3 The commission shall make this determination by September 30,
4 2013. In making this determination, the commission shall determine
5 if there are any public purpose or other noncommodity charges
6 that the eligible customer-generators would pay pursuant to the
7 net energy metering program as it exists prior to aggregation, that
8 the eligible customer-generator would not pay if permitted to
9 aggregate the electrical load of multiple meters pursuant to this
10 paragraph.

11 (E) A local publicly owned electric utility or electrical
12 cooperative shall only allow eligible customer-generators to
13 aggregate their load if the utility's ratemaking authority determines
14 that allowing eligible customer-generators to aggregate their load
15 from multiple meters will not result in an increase in the expected
16 revenue obligations of customers that are not eligible
17 customer-generators. The ratemaking authority of a local publicly
18 owned electric utility or electrical cooperative shall make this
19 determination within 180 days of the first request made by an
20 eligible customer-generator to aggregate their load. In making the
21 determination, the ratemaking authority shall determine if there
22 are any public purpose or other noncommodity charges that the
23 eligible customer-generator would pay pursuant to the net energy
24 metering or co-energy metering program of the utility as it exists
25 prior to aggregation, that the eligible customer-generator would
26 not pay if permitted to aggregate the electrical load of multiple
27 meters pursuant to this paragraph. If the ratemaking authority
28 determines that load aggregation will not cause an incremental
29 rate impact on the utility's customers that are not eligible
30 customer-generators, the local publicly owned electric utility or
31 electrical cooperative shall permit an eligible customer-generator
32 to elect to aggregate the electrical load of multiple meters pursuant
33 to this paragraph. The ratemaking authority may reconsider any
34 determination made pursuant to this subparagraph in a subsequent
35 public proceeding.

36 (F) For purposes of this paragraph, parcels that are divided by
37 a street, highway, or public thoroughfare are considered contiguous,
38 provided they are otherwise contiguous and under the same
39 ownership.

1 (G) An eligible customer-generator may only elect to aggregate
 2 the electrical load of multiple meters if the renewable electrical
 3 generation facility, or a combination of those facilities, has a total
 4 generating capacity of not more than one megawatt.

5 (H) Notwithstanding subdivision (g), an eligible
 6 customer-generator electing to aggregate the electrical load of
 7 multiple meters pursuant to this subdivision shall remit service
 8 charges for the cost of providing billing services to the electric
 9 utility that provides service to the meters.

10 (5) (A) The ratemaking authority shall establish a net surplus
 11 electricity compensation valuation to compensate the net surplus
 12 customer-generator for the value of net surplus electricity generated
 13 by the net surplus customer-generator. The commission shall
 14 establish the valuation in a ratemaking proceeding. The ratemaking
 15 authority for a local publicly owned electric utility shall establish
 16 the valuation in a public proceeding. The net surplus electricity
 17 compensation valuation shall be established so as to provide the
 18 net surplus customer-generator just and reasonable compensation
 19 for the value of net surplus electricity, while leaving other
 20 ratepayers unaffected. The ratemaking authority shall determine
 21 whether the compensation will include, where appropriate
 22 justification exists, either or both of the following components:

- 23 (i) The value of the electricity itself.
- 24 (ii) The value of the renewable attributes of the electricity.

25 (B) In establishing the rate pursuant to subparagraph (A), the
 26 ratemaking authority shall ensure that the rate does not result in a
 27 shifting of costs between eligible customer-generators and other
 28 bundled service customers.

29 (6) (A) Upon adoption of the net surplus electricity
 30 compensation rate by the ratemaking authority, any renewable
 31 energy credit, as defined in Section 399.12, for net surplus
 32 electricity purchased by the electric utility shall belong to the
 33 electric utility. Any renewable energy credit associated with
 34 electricity generated by the eligible customer-generator that is
 35 utilized by the eligible customer-generator shall remain the property
 36 of the eligible customer-generator.

37 (B) Upon adoption of the net surplus electricity compensation
 38 rate by the ratemaking authority, the net surplus electricity
 39 purchased by the electric utility shall count toward the electric
 40 utility's renewables portfolio standard annual procurement targets

1 for the purposes of paragraph (1) of subdivision (b) of Section
2 399.15, or for a local publicly owned electric utility, the renewables
3 portfolio standard annual procurement targets established pursuant
4 to Section 399.30.

5 (7) The electric utility shall provide every eligible residential
6 or small commercial customer-generator with net electricity
7 consumption and net surplus electricity generation information
8 with each regular bill. That information shall include the current
9 monetary balance owed the electric utility for net electricity
10 consumed, or the net surplus electricity generated, since the last
11 12-month period ended. Notwithstanding this subdivision, an
12 electric utility shall permit that customer to pay monthly for net
13 energy consumed.

14 (8) If an eligible residential or small commercial
15 customer-generator terminates the customer relationship with the
16 electric utility, the electric utility shall reconcile the eligible
17 customer-generator's consumption and production of electricity
18 during any part of a 12-month period following the last
19 reconciliation, according to the requirements set forth in this
20 subdivision, except that those requirements shall apply only to the
21 months since the most recent 12-month bill.

22 (9) If an electric service provider or electric utility providing
23 net energy metering to a residential or small commercial
24 customer-generator ceases providing that electric service to that
25 customer during any 12-month period, and the customer-generator
26 enters into a new net energy metering contract or tariff with a new
27 electric service provider or electric utility, the 12-month period,
28 with respect to that new electric service provider or electric utility,
29 shall commence on the date on which the new electric service
30 provider or electric utility first supplies electric service to the
31 customer-generator.

32 (i) Notwithstanding any other provisions of this section,
33 paragraphs (1), (2), and (3) shall apply to an eligible
34 customer-generator with a capacity of more than 10 kilowatts, but
35 not exceeding one megawatt, that receives electric service from a
36 local publicly owned electric utility that has elected to utilize a
37 co-energy metering program unless the local publicly owned
38 electric utility chooses to provide service for eligible
39 customer-generators with a capacity of more than 10 kilowatts in
40 accordance with subdivisions (g) and (h):

1 (1) The eligible customer-generator shall be required to utilize
2 a meter, or multiple meters, capable of separately measuring
3 electricity flow in both directions. All meters shall provide
4 time-of-use measurements of electricity flow, and the customer
5 shall take service on a time-of-use rate schedule. If the existing
6 meter of the eligible customer-generator is not a time-of-use meter
7 or is not capable of measuring total flow of electricity in both
8 directions, the eligible customer-generator shall be responsible for
9 all expenses involved in purchasing and installing a meter that is
10 both time-of-use and able to measure total electricity flow in both
11 directions. This subdivision shall not restrict the ability of an
12 eligible customer-generator to utilize any economic incentives
13 provided by a governmental agency or an electric utility to reduce
14 its costs for purchasing and installing a time-of-use meter.

15 (2) The consumption of electricity from the local publicly owned
16 electric utility shall result in a cost to the eligible
17 customer-generator to be priced in accordance with the standard
18 rate charged to the eligible customer-generator in accordance with
19 the rate structure to which the customer would be assigned if the
20 customer did not use a renewable electrical generation facility.
21 The generation of electricity provided to the local publicly owned
22 electric utility shall result in a credit to the eligible
23 customer-generator and shall be priced in accordance with the
24 generation component, established under the applicable structure
25 to which the customer would be assigned if the customer did not
26 use a renewable electrical generation facility.

27 (3) All costs and credits shall be shown on the eligible
28 customer-generator's bill for each billing period. In any months
29 in which the eligible customer-generator has been a net consumer
30 of electricity calculated on the basis of value determined pursuant
31 to paragraph (2), the customer-generator shall owe to the local
32 publicly owned electric utility the balance of electricity costs and
33 credits during that billing period. In any billing period in which
34 the eligible customer-generator has been a net producer of
35 electricity calculated on the basis of value determined pursuant to
36 paragraph (2), the local publicly owned electric utility shall owe
37 to the eligible customer-generator the balance of electricity costs
38 and credits during that billing period. Any net credit to the eligible
39 customer-generator of electricity costs may be carried forward to
40 subsequent billing periods, provided that a local publicly owned

1 electric utility may choose to carry the credit over as a kilowatt-hour
2 credit consistent with the provisions of any applicable contract or
3 tariff, including any differences attributable to the time of
4 generation of the electricity. At the end of each 12-month period,
5 the local publicly owned electric utility may reduce any net credit
6 due to the eligible customer-generator to zero.

7 (j) A renewable electrical generation facility used by an eligible
8 customer-generator shall meet all applicable safety and
9 performance standards established by the National Electrical Code,
10 the Institute of Electrical and Electronics Engineers, and accredited
11 testing laboratories, including Underwriters Laboratories
12 Incorporated and, where applicable, rules of the commission
13 regarding safety and reliability. A customer-generator whose
14 renewable electrical generation facility meets those standards and
15 rules shall not be required to install additional controls, perform
16 or pay for additional tests, or purchase additional liability
17 insurance.

18 (k) If the commission determines that there are cost or revenue
19 obligations for an electrical corporation that may not be recovered
20 from customer-generators acting pursuant to this section, those
21 obligations shall remain within the customer class from which any
22 shortfall occurred and shall not be shifted to any other customer
23 class. Net energy metering and co-energy metering customers shall
24 not be exempt from the public goods charges imposed pursuant to
25 Article 7 (commencing with Section 381), Article 8 (commencing
26 with Section 385), or Article 15 (commencing with Section 399)
27 of Chapter 2.3 of Part 1.

28 (l) A net energy metering, co-energy metering, or wind energy
29 co-metering customer shall reimburse the Department of Water
30 Resources for all charges that would otherwise be imposed on the
31 customer by the commission to recover bond-related costs pursuant
32 to an agreement between the commission and the Department of
33 Water Resources pursuant to Section 80110 of the Water Code,
34 as well as the costs of the department equal to the share of the
35 department's estimated net unavoidable power purchase contract
36 costs attributable to the customer. The commission shall
37 incorporate the determination into an existing proceeding before
38 the commission, and shall ensure that the charges are
39 nonbypassable. Until the commission has made a determination
40 regarding the nonbypassable charges, net energy metering,

1 co-energy metering, and wind energy co-metering shall continue
2 under the same rules, procedures, terms, and conditions as were
3 applicable on December 31, 2002.

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

10 (n) It is the intent of the Legislature that the Treasurer
11 incorporate net energy metering, including net surplus electricity
12 compensation, co-energy metering, and wind energy co-metering
13 projects undertaken pursuant to this section as sustainable building
14 methods or distributive energy technologies for purposes of
15 evaluating low-income housing projects.