

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2159**

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**Introduced by Assembly Member Ammiano**

February 20, 2014

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An act to *add Section 6502.1 to the Government Code, and to amend Section 2824 Sections 218 and 8380 of the Public Utilities Code, relating to electricity.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2159, as amended, Ammiano. ~~Public utilities: electrical services: charges.~~ *Electrical corporations: community choice aggregation: Joint Exercise of Powers Act.*

*(1) The Joint Exercise of Powers Act authorizes the legislative or other governing bodies of 2 or more public agencies to jointly exercise by agreement any power common to the contracting parties, as specified.*

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes a community choice aggregator, as defined, to aggregate the electrical load of interested electricity consumers within its boundaries and requires a community choice aggregator to file an implementation plan with the Public Utilities Commission. Existing law authorizes any group of cities, counties, or cities and counties whose governing boards have so elected to combine the loads of their programs as a community choice aggregator through the formation of a joint powers agency established pursuant to the Joint Exercise of Powers Act. Existing law authorizes any group of cities, counties, or cities and counties whose governing boards have so elected to combine the electrical loads of their community choice aggregation*

*programs through the formation of a joint powers agency established pursuant to the Joint Exercise of Powers Act.*

*This bill would authorize the board of supervisors of a city and county, by ordinance, to elect to enter into an agreement pursuant to the Joint Exercise of Powers Act to implement a community choice aggregation program with one or more public agencies through a public entity that is separate from the parties to the agreement. This bill would additionally authorize the board of supervisors of a city and county, by resolution, to elect to request another public agency that has elected to implement a community choice aggregation program to be the community choice aggregator for the city and county.*

*(2) Existing law requires an electrical corporation to cooperate fully with any community choice aggregator that investigates, pursues, or implements community choice aggregation programs, including providing appropriate billing and electrical load data, which includes electrical consumption data. Electrical or gas consumption data is defined as data about a customer's electrical or natural gas usage that is made available as part of an advanced metering infrastructure, and includes the name, account number, or residence of the customer.*

*Existing law prohibits an electrical corporation or gas corporation from sharing, disclosing, or otherwise making accessible to any 3rd party a customer's electrical or gas consumption data, except as specified, and requires those utilities to use reasonable security procedures and practices to protect a customer's unencrypted electrical and gas consumption data from unauthorized access, destruction, use, modification, or disclosure. Existing law does not preclude an electrical corporation or gas corporation from disclosing electrical or gas consumption data as required or permitted under state or federal law or by an order of the Public Utilities Commission.*

*This bill would require an electrical corporation to provide electrical consumption data to community choice aggregators pursuant to their above-described duty to cooperate, subject to any reasonable security procedures and practices to protect the personal information from unauthorized access, destruction, use, modification, or disclosure ordered by the commission or agreed upon between the electrical corporation and the community choice aggregator.*

*(3) The existing definition of an electrical corporation excludes a corporation or person employing cogeneration, as defined, technology or producing electricity from other than a conventional power source for either of the following purposes: (1) its own use or the use of its*

tenants, or (2) the use of or sale to not more than 2 other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, subject to certain exceptions and conditions. The 2nd purpose is commonly known as an over-the-fence transaction.

This bill would expand the over-the-fence transaction exception to the definition of an electrical corporation by repealing the limitation on the number of other corporations or persons that may use or be sold the electricity.

~~Existing law requires the Public Utilities Commission to review various charges paid by or charged by electrical corporations related to the delivery of electrical services. Existing law requires the commission, following the review, to consider adjustments to the charges to encourage the utilization of electricity generated from other than conventional power sources.~~

~~This bill would make nonsubstantive changes to the above provision.~~

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

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

1     SECTION 1. Section 6502.1 is added to the Government Code,  
2 to read:

3     6502.1. (a) The board of supervisors of a city and county may,  
4 by ordinance adopted pursuant to paragraph (12) of subdivision  
5 (c) of Section 366.2 of the Public Utilities Code, elect to enter into  
6 an agreement pursuant to this chapter to implement a community  
7 choice aggregation program with one or more public agencies  
8 through a public entity that is separate from the parties to the  
9 agreement.

10    (b) The board of supervisors of a city and county may, by  
11 resolution adopted pursuant to subparagraph (A) of paragraph  
12 (12) of subdivision (c) of Section 366.2 of the Public Utilities Code,  
13 elect to request another public agency that has elected to implement  
14 a community choice aggregation program be the community choice  
15 aggregator for the city and county.

16    SEC. 2. Section 218 of the Public Utilities Code is amended  
17 to read:

18    218. (a) "Electrical corporation" includes every corporation  
19 or person owning, controlling, operating, or managing any electric

1 plant for compensation within this state, except where electricity  
 2 is generated on or distributed by the producer through private  
 3 property solely for its own use or the use of its tenants and not for  
 4 sale or transmission to others.

5 (b) “Electrical corporation” does not include a corporation or  
 6 person employing cogeneration technology or producing power  
 7 from other than a conventional power source for the generation of  
 8 electricity solely for any one or more of the following purposes:

9 (1) Its own use or the use of its tenants.

10 (2) The use of or sale to ~~not more than two~~ other corporations  
 11 or persons solely for use on the real property on which the  
 12 electricity is generated or on real property immediately adjacent  
 13 thereto, unless there is an intervening public street constituting the  
 14 boundary between the real property on which the electricity is  
 15 generated and the immediately adjacent property and one or more  
 16 of the following applies:

17 (A) The real property on which the electricity is generated and  
 18 the immediately adjacent real property is not under common  
 19 ownership or control, or that common ownership or control was  
 20 gained solely for purposes of sale of the electricity so generated  
 21 and not for other business purposes.

22 (B) The useful thermal output of the facility generating the  
 23 electricity is not used on the immediately adjacent property for  
 24 petroleum production or refining.

25 (C) The electricity furnished to the immediately adjacent  
 26 property is not utilized by a subsidiary or affiliate of the corporation  
 27 or person generating the electricity.

28 (3) Sale or transmission to an electrical corporation or state or  
 29 local public agency, but not for sale or transmission to others,  
 30 unless the corporation or person is otherwise an electrical  
 31 corporation.

32 (c) “Electrical corporation” does not include a corporation or  
 33 person employing landfill gas technology for the generation of  
 34 electricity for any one or more of the following purposes:

35 (1) Its own use or the use of not more than two of its tenants  
 36 located on the real property on which the electricity is generated.

37 (2) The use of or sale to not more than two other corporations  
 38 or persons solely for use on the real property on which the  
 39 electricity is generated.

1 (3) Sale or transmission to an electrical corporation or state or  
2 local public agency.

3 (d) “Electrical corporation” does not include a corporation or  
4 person employing digester gas technology for the generation of  
5 electricity for any one or more of the following purposes:

6 (1) Its own use or the use of not more than two of its tenants  
7 located on the real property on which the electricity is generated.

8 (2) The use of or sale to not more than two other corporations  
9 or persons solely for use on the real property on which the  
10 electricity is generated.

11 (3) Sale or transmission to an electrical corporation or state or  
12 local public agency, if the sale or transmission of the electricity  
13 service to a retail customer is provided through the transmission  
14 system of the existing local publicly owned electric utility or  
15 electrical corporation of that retail customer.

16 (e) “Electrical corporation” does not include an independent  
17 solar energy producer, as defined in Article 3 (commencing with  
18 Section 2868) of Chapter 9 of Part 2.

19 (f) The amendments made to this section at the 1987 portion of  
20 the 1987–88 Regular Session of the Legislature do not apply to  
21 any corporation or person employing cogeneration technology or  
22 producing power from other than a conventional power source for  
23 the generation of electricity that physically produced electricity  
24 prior to January 1, 1989, and furnished that electricity to  
25 immediately adjacent real property for use thereon prior to January  
26 1, 1989.

27 *SEC. 3. Section 8380 of the Public Utilities Code is amended*  
28 *to read:*

29 8380. (a) For purposes of this section, “electrical or gas  
30 consumption data” means data about a customer’s electrical or  
31 natural gas usage that is made available as part of an advanced  
32 metering infrastructure, and includes the name, account number,  
33 or residence of the customer.

34 (b) (1) An electrical corporation or gas corporation shall not  
35 share, disclose, or otherwise make accessible to any third party a  
36 customer’s electrical or gas consumption data, except as provided  
37 in subdivision (e) or upon the consent of the customer.

38 (2) An electrical corporation or gas corporation shall not sell a  
39 customer’s electrical or gas consumption data or any other  
40 personally identifiable information for any purpose.

1 (3) The electrical corporation or gas corporation or its  
2 contractors shall not provide an incentive or discount to the  
3 customer for accessing the customer's electrical or gas consumption  
4 data without the prior consent of the customer.

5 (4) An electrical or gas corporation that utilizes an advanced  
6 metering infrastructure that allows a customer to access the  
7 customer's electrical and gas consumption data shall ensure that  
8 the customer has an option to access that data without being  
9 required to agree to the sharing of his or her personally identifiable  
10 information, including electrical or gas consumption data, with a  
11 third party.

12 (c) If an electrical corporation or gas corporation contracts with  
13 a third party for a service that allows a customer to monitor his or  
14 her electricity or gas usage, and that third party uses the data for  
15 a secondary commercial purpose, the contract between the electrical  
16 corporation or gas corporation and the third party shall provide  
17 that the third party prominently discloses that secondary  
18 commercial purpose to the customer and secures the customer's  
19 consent to the use of his or her data for that secondary commercial  
20 purpose prior to the use of the data.

21 (d) An electrical corporation or gas corporation shall use  
22 reasonable security procedures and practices to protect a customer's  
23 unencrypted electrical or gas consumption data from unauthorized  
24 access, destruction, use, modification, or disclosure.

25 (e) (1) This section shall not preclude an electrical corporation  
26 or gas corporation from using customer aggregate electrical or gas  
27 consumption data for analysis, reporting, or program management  
28 if all information has been removed regarding the individual  
29 identity of a customer.

30 (2) This section shall not preclude an electrical corporation or  
31 gas corporation from disclosing a customer's electrical or gas  
32 consumption data to a third party for system, grid, or operational  
33 needs, or the implementation of demand response, energy  
34 management, or energy efficiency programs, provided that, for  
35 contracts entered into after January 1, 2011, the utility has required  
36 by contract that the third party implement and maintain reasonable  
37 security procedures and practices appropriate to the nature of the  
38 information, to protect the personal information from unauthorized  
39 access, destruction, use, modification, or disclosure, and prohibits  
40 the use of the data for a secondary commercial purpose not related

1 to the primary purpose of the contract without the customer’s prior  
2 consent to that use.

3 (3) This section shall not preclude an electrical corporation or  
4 gas corporation from disclosing electrical or gas consumption data  
5 as required or permitted under state or federal law or by an order  
6 of the commission. *An electrical corporation shall provide*  
7 *electrical consumption data to community choice aggregators*  
8 *pursuant to paragraph (9) of subdivision (c) of Section 366.2,*  
9 *subject to any reasonable security procedures and practices to*  
10 *protect the personal information from unauthorized access,*  
11 *destruction, use, modification, or disclosure ordered by the*  
12 *commission or agreed upon between the electrical corporation*  
13 *and the community choice aggregator.*

14 (f) If a customer chooses to disclose his or her electrical or gas  
15 consumption data to a third party that is unaffiliated with, and has  
16 no other business relationship with, the electrical or gas  
17 corporation, the electrical or gas corporation shall not be  
18 responsible for the security of that data, or its use or misuse.

19 ~~SECTION 1. Section 2824 of the Public Utilities Code is~~  
20 ~~amended to read:~~

21 ~~2824. (a) The commission shall conduct a review of the~~  
22 ~~charges paid by electrical corporations for electricity generated~~  
23 ~~from other than conventional power sources and furnished to the~~  
24 ~~electrical corporations. Following the review, the commission shall~~  
25 ~~consider adjustments in the charges to encourage the generation~~  
26 ~~of electricity from other than conventional power sources.~~

27 ~~(b) The commission shall conduct a review of standby charges~~  
28 ~~charged by electrical corporations. Following the review, the~~  
29 ~~commission shall consider adjustments in the charges to encourage~~  
30 ~~the utilization of electricity generated from other than conventional~~  
31 ~~power sources and to enable electrical corporations to review the~~  
32 ~~costs of providing standby service.~~

33 ~~(c) The commission shall conduct a review of charges for~~  
34 ~~transmission service made by electrical corporations for the~~  
35 ~~transmission of electricity generated from other than conventional~~  
36 ~~power sources. Following the review, the commission shall~~  
37 ~~consider adjustments in the charges to encourage the generation~~  
38 ~~of electricity from other than conventional power sources.~~

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