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SENATE BILL

No. 43

Introduced by Senator Wolk

(Coauthors: Senators Corbett and Pavley)

(Coauthors: Assembly Members Levine, Skinner, and Williams)

December 11, 2012

An act to add and repeal Chapter 7.6 (commencing with Section 2831) of Part 2 of Division 1 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Wolk. Electricity: Green Tariff Shared Renewables Program.

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. 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 to receive a bill credit 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.

This bill would enact the Green Tariff Shared Renewables Program. The program would require a participating utility, defined as being an electrical corporation with 100,000 or more customers in California, to file with the commission an application requesting approval of a green tariff shared renewable program to implement a program enabling ratepayers to participate directly in offsite electrical generation facilities that use eligible renewable energy resources, consistent with certain legislative findings and statements of intent. The bill would require the commission, by July 1, 2014, to issue a decision concerning the participating utility's application, determining whether to approve or disapprove the application, with or without modifications. The bill would require the commission, after notice and opportunity for public comment, to approve the application if the commission determines that the proposed program is reasonable and consistent with the legislative findings and statements of intent. The bill would require the commission to require that a participating utility's green tariff shared ~~renewable~~ *renewables* program be administered in accordance with specified provisions. The bill would repeal the program on January 1, 2019.

(2) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of the bill would require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. 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. GREEN TARIFF SHARED RENEWABLES PROGRAM
5

6 2831. The Legislature finds and declares all of the following:

7 (a) Building operational generating facilities that utilize sources
8 of renewable energy within California, to supply the state's demand
9 for electricity, provides significant financial, health, environmental,
10 and workforce benefits to the State of California.

11 (b) The California Solar Initiative will achieve its goals, resulting
12 in over 150,000 residential and commercial onsite installations of
13 solar energy systems. However, the California Solar Initiative
14 cannot reach all residents and businesses that want to participate
15 and is limited to only solar energy systems and not other eligible
16 renewable energy resources. A green tariff shared renewables
17 program seeks to build on the success of the California Solar
18 Initiative by expanding access to all eligible renewable energy
19 resources to all ratepayers who are currently unable to access the
20 benefits of onsite generation.

21 (c) There is widespread interest from many large institutional
22 customers, including schools, colleges, universities, local
23 governments, businesses, and the military, for the development of
24 generation facilities that are eligible renewable energy resources
25 to serve more than 33 percent of their energy needs.

26 (d) Public institutions will benefit from a green tariff shared
27 renewables program's enhanced flexibility to participate in shared
28 generation facilities that are eligible renewable energy resources.

29 (e) Building operational generating facilities that are eligible
30 renewable energy resources creates jobs, reduces emissions of
31 greenhouse gases, and promotes energy independence.

32 (f) Many large energy users in California have pursued onsite
33 electrical generation from eligible renewable energy resources,
34 but cannot achieve their goals due to rooftop or land space
35 limitations, or size limits on net energy metering. The enactment
36 of this chapter will create a mechanism whereby institutional
37 customers, such as military installations, universities, and local
38 governments, as well as commercial customers and groups of

1 individuals, can meet their needs with electrical generation from
2 eligible renewable energy resources.

3 (g) It is the intent of the Legislature that a green tariff shared
4 renewables program be implemented in such a manner that
5 facilitates a large, sustainable market for offsite electrical
6 generation from facilities that are eligible renewable energy
7 resources, while fairly compensating electrical corporations for
8 the services they provide, without affecting nonparticipating
9 ratepayers.

10 (h) It is the further intent of the Legislature that a green tariff
11 shared renewables program be implemented in a manner that
12 ensures nonparticipating ratepayer indifference for the remaining
13 bundled service, direct access, and community choice aggregation
14 customers.

15 2831.5. (a) This chapter shall be known, and may be cited, as
16 the Green Tariff Shared Renewables Program.

17 (b) For purposes of this chapter, the following terms have the
18 following meanings:

19 (1) “Eligible renewable energy resource,” “renewable energy
20 credit,” and “renewables portfolio standard” have the same meaning
21 as those terms have for the California Renewables Portfolio
22 Standard Program (Article 16 (commencing with Section 399.11)
23 of Chapter 2.3 of Part 1).

24 (2) “Participating utility” means an electrical corporation with
25 100,000 or more customer accounts in California.

26 2832. (a) On or before March 1, 2014, a participating utility
27 shall file with the commission an application requesting approval
28 of a green tariff shared renewables program to implement a
29 program that the utility determines is consistent with the legislative
30 findings and statements of intent of Section 2831. Nothing in this
31 chapter limits an electrical corporation with less than 100,000
32 customer accounts in California from filing an application with
33 the commission to administer a green tariff shared renewables
34 program that is consistent with the legislative findings and
35 statements of intent of Section 2831.

36 (b) On or before July 1, 2014, the commission shall issue a
37 decision on the participating utility’s application for a green tariff
38 shared renewables program, determining whether to approve or
39 disapprove it, with or without modifications.

1 (c) After notice and an opportunity for public comment, the
2 commission shall approve an application by a participating utility
3 for a green tariff shared renewables program if the commission
4 determines that the program is reasonable and consistent with the
5 legislative findings and statements of intent of Section 2831.

6 (d) The requirements of this chapter shall not apply to an
7 electrical corporation that, prior to May 1, 2013, filed an
8 application with the commission to have a green tariff shared
9 renewables program, or an equivalent program of whatever name,
10 provided the commission approves the application with a
11 determination that the program does not shift costs to
12 nonparticipating customers and the application is consistent with
13 this chapter. If the commission has approved a settlement
14 agreement relative to parties contesting an application filed prior
15 to May 1, 2013, the requirements of this section shall not apply if
16 the commission, within a reasonable period of time, requires
17 revisions to the previously approved settlement agreement that
18 requires the program to be consistent with this chapter.

19 2833. (a) The commission shall require a green tariff shared
20 renewables program to be administered by a participating utility
21 in accordance with this section.

22 (b) Generating facilities participating in a participating utility's
23 green tariff shared renewables program shall be eligible renewable
24 energy resources with a nameplate rated generating capacity not
25 exceeding 20 megawatts, except for those generating facilities
26 reserved for location in areas identified by the California
27 Environmental Protection Agency as the most impacted and
28 disadvantaged communities pursuant to paragraph (1) of
29 subdivision (d), which shall not exceed one megawatt nameplate
30 rated generating capacity.

31 (c) A participating utility shall use ~~existing~~
32 commission-approved tools and mechanisms to procure additional
33 eligible renewable energy resources for the green tariff shared
34 renewables program from electrical generation facilities that are
35 in addition to those required by the California Renewables Portfolio
36 Standard Program (Article 16 (commencing with Section 399.11)
37 of Chapter 2.3 of Part 1). For purposes of this subdivision, "~~existing~~
38 ~~commission-approved~~ *commission-approved* tools and
39 mechanisms" means those procurement methods approved by the
40 commission ~~on or before December 31, 2013~~, for an electrical

1 corporation to procure eligible renewable energy resources for
2 purposes of meeting the procurement requirements of the California
3 Renewables Portfolio Standard Program (Article 16 (commencing
4 with Section 399.11) of Chapter 2.3 of Part 1).

5 (d) A participating utility shall permit customers within the
6 service territory of the utility to purchase electricity pursuant to
7 the tariff approved by the commission to implement the utility's
8 green tariff shared renewables program, until the utility meets its
9 proportionate share of a statewide limitation of 600 megawatts of
10 customer participation, measured by nameplate rated generating
11 capacity. The proportionate share shall be calculated based on the
12 ratio of each participating utility's retail sales to total retail sales
13 of electricity by all participating utilities. The commission may
14 place other restrictions on purchases under a green tariff shared
15 renewables program, including restricting participation to a certain
16 level of capacity each year. The following restrictions shall apply
17 to the statewide 600 megawatt limitation:

18 (1) (A) One hundred megawatts shall be reserved for facilities
19 that are no larger than one megawatt nameplate rated generating
20 capacity and that are located in areas previously identified by the
21 California Environmental Protection Agency as the most impacted
22 and disadvantaged communities. These communities shall be
23 identified by census tract, and shall be determined to be the most
24 impacted 20 percent based on results from the best available
25 cumulative impact screening methodology designed to identify
26 each of the following:

27 (i) Areas disproportionately affected by environmental pollution
28 and other hazards that can lead to negative public health effects,
29 exposure, or environmental degradation.

30 (ii) Areas with socioeconomic vulnerability.

31 ~~(B) Of the 100 megawatts reserved for eligible renewable energy~~
32 ~~resources that are located in areas previously identified by the~~
33 ~~California Environmental Protection Agency as the most impacted~~
34 ~~and disadvantaged communities, 20 percent shall be allocated to~~
35 ~~residential customers.~~

36 ~~(C)~~

37 (B) (1) For purposes of this paragraph, "previously identified"
38 means identified prior to commencing construction of the facility.

1 (2) ~~In addition to any residential allocation pursuant to~~
2 ~~subparagraph (B) of paragraph (1), not~~ *Not* less than 100 megawatts
3 shall be reserved for participation by residential class customers.

4 (3) Twenty megawatts shall be reserved for the City of Davis.

5 (e) To the extent possible, a participating utility shall seek to
6 procure eligible renewable energy resources that are located in
7 reasonable proximity to enrolled participants.

8 (f) A participating utility's green tariff shared renewables
9 program shall support diverse procurement and the goals of
10 commission General Order 156.

11 (g) A participating utility's green tariff shared renewables
12 program shall not allow a customer to subscribe to more than 100
13 percent of the customer's electricity demand.

14 (h) Except as authorized by this subdivision, a participating
15 utility's green tariff shared renewables program shall not allow a
16 customer to subscribe to more than two megawatts of nameplate
17 generating capacity. This limitation does not apply to a federal,
18 state, or local government, school or school district, county office
19 of education, the California Community Colleges, the California
20 State University, or the University of California.

21 (i) A participating utility's green tariff shared renewables
22 program shall not allow any single entity or its affiliates or
23 subsidiaries to subscribe to more than 20 percent of any single
24 calendar year's total cumulative rated generating capacity.

25 (j) To the extent possible, a participating utility shall actively
26 market the utility's green tariff shared renewables program to
27 low-income and minority communities and customers.

28 (k) Participating customers shall receive bill credits for the
29 generation of a participating eligible renewable energy resource
30 using the class average retail generation ~~rate~~ *cost* as established in
31 the participating utility's approved tariff for the class to which the
32 participating customer belongs, plus a renewables adjustment value
33 representing the difference between the time-of-delivery profile
34 of the eligible renewable energy resource used to serve the
35 participating customer and the class average time-of-delivery
36 profile and the resource adequacy value, if any, of the resource
37 contained in the utility's green tariff shared renewables program.
38 The renewables adjustment value applicable to a time-of-delivery
39 profile of an eligible renewable energy resource shall be determined
40 according to rules adopted by the commission. For these purposes,

1 “time-of-delivery profile” refers to the daily generating pattern of
2 a participating eligible renewable energy resource over time, the
3 value of which is determined by comparing the generating pattern
4 of that participating eligible renewable energy resource to the
5 demand for electricity over time and other generating resources
6 available to serve that demand.

7 (l) Participating customers shall pay a renewable generation
8 rate established by the commission, the administrative costs of the
9 participating utility, and any other charges the commission
10 determines are just and reasonable to fully cover the cost of
11 procuring a green tariff shared renewables program’s resources to
12 serve a participating customer’s needs.

13 (m) A participating customer’s rates shall be debited or credited
14 with any other commission-approved costs or values applicable
15 to the eligible renewable energy resources contained in a
16 participating utility’s green tariff shared renewables program’s
17 portfolio. These additional costs or values shall be applied to new
18 customers when they initially subscribe after the cost or value has
19 been approved by the commission.

20 (n) Participating customers shall pay all otherwise applicable
21 charges without modification.

22 (o) A participating utility shall provide support for enhanced
23 community renewables programs to facilitate development of
24 eligible renewable energy resource projects located close to the
25 source of demand.

26 (p) The commission shall ensure that charges and credits
27 associated with a participating utility’s green tariff shared
28 renewables program are set in a manner that ensures nonparticipant
29 ratepayer indifference for the remaining bundled service, direct
30 access, and community choice aggregation customers and ensures
31 that no costs are shifted from participating customers to
32 nonparticipating ratepayers.

33 (q) A participating utility shall track and account for all revenues
34 and costs to ensure that the utility recovers the actual costs of the
35 utility’s green tariff shared renewables program and that all costs
36 and revenues are fully transparent and auditable.

37 (r) Any renewable energy credits associated with electricity
38 procured by a participating utility for the utility’s green tariff shared
39 renewables program and utilized by a participating customer shall
40 be retired by the participating utility on behalf of the participating

1 customer. Those renewable energy credits shall not be further sold,
2 transferred, or otherwise monetized for any purpose. Any
3 renewable energy credits associated with electricity procured by
4 a participating utility for the shared renewable energy
5 self-generation program, but not utilized by a participating
6 customer, shall be counted toward meeting that participating
7 utility’s renewables portfolio standard.

8 (s) A participating utility shall, in the event of participant
9 customer attrition or other causes that reduce customer participation
10 or electrical demand below generation levels, apply the excess
11 generation from the eligible renewable energy resources procured
12 through the utility’s green tariff shared renewables program to the
13 utility’s renewable portfolio standard procurement obligations or
14 bank the excess generation for future use to benefit all customers
15 in accordance with the renewables portfolio standard banking and
16 procurement rules approved by the commission.

17 (t) In calculating its procurement requirements to meet the
18 requirements of the California Renewables Portfolio Standard
19 Program (Article 16 (commencing with Section 399.11) of Chapter
20 2.3 of Part 1), a participating utility may exclude from total retail
21 sales the kilowatthours generated by an eligible renewable energy
22 resource that is credited to a participating customer pursuant to
23 the utility’s green tariff shared renewables program, commencing
24 with the point in time at which the generating facility achieves
25 commercial operation.

26 (u) All renewable energy resources procured on behalf of
27 participating customers in the participating utility’s green tariff
28 shared renewables program shall comply with the State Air
29 Resources Board’s Voluntary Renewable Electricity Program.
30 California-eligible greenhouse gas allowances associated with
31 these purchases shall be retired on behalf of participating customers
32 as part of the board’s Voluntary Renewable Electricity Program.

33 (v) A participating utility shall provide a municipality with
34 aggregated consumption data for participating customers within
35 the municipality’s jurisdiction to allow for reporting on progress
36 toward climate action goals by the municipality. A participating
37 utility shall also publicly disclose, on a geographic basis,
38 consumption data and reductions in emissions of greenhouse gases
39 achieved by participating customers in the utility’s green tariff
40 shared renewables program, on an aggregated basis consistent with

1 privacy protections as specified in Chapter 5 (commencing with
2 Section 8380) of Division 4.1.

3 *(w) Shareholders of a participating utility shall not be required*
4 *to pay for any costs associated with the green tariff shared*
5 *renewables program.*

6 *(x) Nothing in this section prohibits or restricts a community*
7 *choice aggregator from offering its own voluntary renewable*
8 *energy programs to participating customers of the community*
9 *choice aggregation.*

10 2834. This chapter shall remain in effect only until January 1,
11 2019, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, 2019, deletes or extends that date.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.