

AMENDED IN ASSEMBLY MAY 23, 2016
AMENDED IN ASSEMBLY APRIL 26, 2016
AMENDED IN ASSEMBLY APRIL 11, 2016
AMENDED IN ASSEMBLY MARCH 17, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1979

Introduced by Assembly Member Bigelow

February 16, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1979, as amended, Bigelow. Renewable feed-in tariff: hydroelectric facilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity ~~generated by~~ *purchased from* an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. Existing law requires that, in order to qualify for the tariff, the electric generation facility: (1) have an effective capacity of not more than 3 megawatts, subject to the authority of the commission to reduce this megawatt limitation, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electrical transmission

and distribution system *grid* in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the California Renewables Portfolio Standard Program. The commission refers to this requirement as the renewable feed-in tariff.

This bill would revise the requirement that an electric generation facility have an effective capacity of not more than 3 megawatts to additionally authorize a *conduit* hydroelectric facility with a nameplate generating capacity of up to ~~5~~ 4 megawatts to participate in the renewable feed-in tariff if the facility delivers no more than 3 megawatts to the grid at any ~~time~~ *time, was operational on January 1, 1990*, and complies with specified interconnection and payment requirements.

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 399.20 of the Public Utilities Code is
- 2 amended to read:
- 3 399.20. (a) It is the policy of this state and the intent of the
- 4 Legislature to encourage electrical generation from eligible
- 5 renewable energy resources.
- 6 (b) As used in this section, “electric generation facility” means
- 7 an electric generation facility located within the service territory
- 8 of, and developed to sell electricity to, an electrical corporation
- 9 that meets all of the following criteria:
- 10 (1) Has an effective capacity of not more than three megawatts
- 11 or is a *conduit* hydroelectric facility with a nameplate generating
- 12 capacity of up to ~~five~~ *four* megawatts if the *conduit* hydroelectric
- 13 facility meets the following conditions:
- 14 (A) It delivers no more than three megawatts to the grid at any
- 15 time.
- 16 (B) It complies with the electrical corporation’s Electric Rule
- 17 21 tariff or other distribution access tariff.
- 18 (C) Payment is made pursuant to paragraph (1) of subdivision
- 19 (d) and no payment is made for any deliveries ~~of electricity~~ in
- 20 excess of three ~~megawatts~~ *megawatts at any time*.
- 21 (D) It was ~~operational, but not under a long-term contract,~~
- 22 *operational* as of January 1, ~~2017~~, *1990*, and is an eligible
- 23 renewable energy resource.

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

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

6 (4) Is an eligible renewable energy resource.

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

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

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

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

31 (B) The long-term ownership, operating, and fixed-price fuel
32 costs associated with fixed-price electricity from new generating
33 facilities.

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

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

39 (4) The commission shall ensure, with respect to rates and
40 charges, that ratepayers that do not receive service pursuant to the

1 tariff are indifferent to whether a ratepayer with an electric
2 generation facility receives service pursuant to the tariff.

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

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

22 (2) By June 1, 2013, the commission shall, in addition to the
23 750 megawatts identified in paragraph (1), direct the electrical
24 corporations to collectively procure at least 250 megawatts of
25 cumulative rated generating capacity from developers of bioenergy
26 projects that commence operation on or after June 1, 2013. The
27 commission shall, for each electrical corporation, allocate shares
28 of the additional 250 megawatts based on the ratio of each electrical
29 corporation's peak demand compared to the total statewide peak
30 demand. In implementing this paragraph, the commission shall do
31 all of the following:

32 (A) Allocate the 250 megawatts identified in this paragraph
33 among the electrical corporations based on the following
34 categories:

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

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

38 (iii) For bioenergy using byproducts of sustainable forest
39 management, 50 megawatts. Allocations under this category shall
40 be determined based on the proportion of bioenergy that sustainable

1 forest management providers derive from sustainable forest
2 management in fire threat treatment areas, as designated by the
3 Department of Forestry and Fire Protection.

4 (B) Direct the electrical corporations to develop standard
5 contract terms and conditions that reflect the operational
6 characteristics of the projects, and to provide a streamlined
7 contracting process.

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

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

16 (3) (A) The commission, in consultation with the State Energy
17 Resources Conservation and Development Commission, the State
18 Air Resources Board, the Department of Forestry and Fire
19 Protection, the Department of Food and Agriculture, and the
20 Department of Resources Recycling and Recovery, may review
21 the allocations of the 250 additional megawatts identified in
22 paragraph (2) to determine if those allocations are appropriate.

23 (B) If the commission finds that the allocations of the 250
24 additional megawatts identified in paragraph (2) are not
25 appropriate, the commission may reallocate the 250 megawatts
26 among the categories established in subparagraph (A) of paragraph
27 (2).

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

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

33 (h) Every kilowatthour of electricity purchased from an electric
34 generation facility shall count toward meeting the electrical
35 corporation’s renewables portfolio standard annual procurement
36 targets for purposes of paragraph (1) of subdivision (b) of Section
37 399.15.

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

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

6 (2) The commission may reduce the three megawatt capacity
7 limitation of paragraph (1) of subdivision (b), but not the limitation
8 for a *conduit* hydroelectric facility authorized pursuant to
9 subparagraph (D) of paragraph (1) of subdivision (b), if the
10 commission finds that a reduced capacity limitation is necessary
11 to maintain system reliability within that electrical corporation's
12 service territory.

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

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

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

36 (l) An owner or operator of an electric generation facility
37 electing to receive service under a tariff or contract approved by
38 the commission shall continue to receive service under the tariff
39 or contract until either of the following occurs:

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

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

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

15 (n) An electrical corporation may deny a tariff request pursuant
16 to this section if the electrical corporation makes any of the
17 following findings:

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

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

22 (3) The electric generation facility does not meet all applicable
23 state and local laws and building standards and utility
24 interconnection requirements.

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

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

32 (p) In order to ensure the safety and reliability of electric
33 generation facilities, the owner of an electric generation facility
34 receiving a tariff pursuant to this section shall provide an inspection
35 and maintenance report to the electrical corporation at least once
36 every other year. The inspection and maintenance report shall be
37 prepared at the owner's or operator's expense by a
38 California-licensed contractor who is not the owner or operator of
39 the electric generation facility. A California-licensed electrician

1 shall perform the inspection of the electrical portion of the
2 generation facility.

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

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

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