AMENDED IN SENATE APRIL 6, 2015

# SENATE BILL No. 765

**Introduced by Senator Wolk**

February 27, 2015

An act to amend Section ~~2827 of~~ *399 of, and to add Sections 399.5 and 399.6 to,* the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 765, as amended, Wolk. Net energy metering: eligible customer generators.

*The Reliable Electric Service Investment Act requires the Public Utilities Commission (PUC), in evaluating energy efficiency investments, to ensure that local and regional interests, multifamily dwellings, and energy service industry capabilities are incorporated into program portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.*

*This bill would require the PUC, in ensuring that prudent investments in energy efficiency are made and produce cost-effective energy savings, reduce customer demand, and support the state's greenhouse gas emissions reduction goals, to contract with an independent entity to serve as the California Market Transformation Administrator (CalMTA). The bill would require the PUC to require the CalMTA to take certain actions, including, among other actions, working in concert with other energy efficiency administrators that are carrying out energy efficiency activities under the PUC's oversight to incorporate long-term market transformation strategies into the state's energy efficiency portfolio and to work with the State Energy Resources Conservation and Development Commission to encourage local publicly owned electric* *utilities to participate in the CalMTA's planning efforts and provide funding for and support the market transformation initiatives administered by the CalMTA to ensure statewide consistency and full market deployment. Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program. The bill would require the PUC to consult with the CalMTA regarding demand-side energy management programs.*

*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.*

~~Existing law, relative to private energy producers, requires every electric utility to develop a standard contract or tariff providing for net energy metering and to make this contract or tariff available to eligible customer-generators upon request for generation by a renewable electrical generation facility. Existing law requires that the net energy metering calculation be made by measuring the difference between the electricity supplied to an eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electrical grid over a 12-month period. Existing law establishes rules for the annualized net metering calculation, which, among other things, authorizes an eligible customer-generator with multiple meters to elect to aggregate the electrical load of the meters located on the property where the renewable electrical generation facility is located and on all property adjacent or contiguous to the property on which the generation facility is located, if those properties are solely owned, leased, or rented by the eligible customer-generator. Existing law specifies that an eligible customer-generator who elects to aggregate under that provision is permanently ineligible to receive net surplus electricity compensation and the electric utility would retain any kilowatthours in excess of the eligible customer-generator's electricity load generated during the 12-month period.~~

~~This bill would delete this provision, thereby allowing an eligible customer-generator who elects to aggregate to receive net surplus electricity compensation.~~

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

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

*SECTION 1. Section 399 of the Public Utilities Code is amended to read:*

399. (a) This article shall be known, and may be cited, as the Reliable Electric Service Investments Act.

(b) The Legislature finds and declares that safe, reliable electric service is of utmost importance to the citizens of this state, and its economy.

(c) The Legislature further finds and declares that in order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is essential that prudent investments continue to be made in all of the following areas:

(1) To protect the integrity of the electric distribution grid.

(2) To ensure an adequately sized and trained utility workforce.

(3) To ensure cost-effective energy efficiency improvements.

(4) To achieve a sustainable supply of renewable energy.

(5) To advance public interest research, development and demonstration programs not adequately provided by competitive and regulated markets.

(d) It is the intent of the Legislature to reaffirm, without requiring revision, California's doctrine, as reflected in regulatory and judicial decisions, regarding electrical corporations' reasonable opportunity to recover costs and investments associated with their electric distribution grid and the reasonable opportunity to attract capital for investment on reasonable terms.

(e) The Legislature further finds and declares all of the following:

(1) Acting under applicable constitutional and statutory authorities, the Public Utilities Commission and the boards of local publicly owned electric utilities have included in regulated electricity prices, investments that are essential to maintaining system reliability, reducing California electricity users' bills, and mitigating environmental costs of California users' electricity consumption.

(2) Among the most important of these "system benefits" investments categories are energy efficiency, renewable energy, and public interest research, development and demonstration (RD&D).

(3) Energy efficiency investments funded from California's usage-based charges on electricity distribution help improve systemwide reliability by reducing demand in times and areas of system congestion, and at the same time reduce all California electricity users' costs. These investments also significantly reduce environmental costs associated with California's electricity consumption, including, but not limited to, degradation of the state's air, water, and land resources.

(4) California's in-state renewable energy resources help alleviate supply deficits that could threaten electric system reliability, reduce environmental costs associated with California's electricity consumption, and increase the diversity of the electricity system's fuel mix, reducing electricity users' exposure to fossil-fuel price volatility.

(5) California's public interest RD&D investments enhance private and regulated sector investment in electricity system technologies, and are designed specifically to help ensure sustained improvement in the economic and environmental performance of the distribution, transmission, and generation and end-use systems that serve California electricity users.

(6) California has established a long tradition of recovering system benefits investments through usage-based electricity charges, which is reflected in at least two decades of electricity price regulation by the commission, the boards of local publicly owned electric utilities, and the mandate of the Legislature in Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the 1995–96 Regular Session of the Legislature) and Chapter 905 of the Statutes of 1997 (Senate Bill 90 of the 1997–98 Regular Session of the Legislature).

(7) Unless the Legislature acts to extend the mandate of this article for minimum levels of usage based system benefits charges, California electricity users are at substantial risk of higher economic and environmental costs and degraded reliability.

*(f) (1) The Legislature further finds and declares all of the following:*

*(A) Targeted energy efficiency market transformation initiatives aimed at long-term transformation of defined markets are a necessary component of a comprehensive, balanced, and cost-effective energy efficiency portfolio.*

*(B) Because tensions can exist between market transformation initiatives and energy efficiency resource acquisition strategies, it is important to recognize the differences between what each of these strategies can accomplish and to pursue both in California.*

*(C) The existing energy efficiency portfolio overseen by the commission focuses on energy efficiency resource acquisition.*

*(D) The creation of a single entity with responsibility for planning, coordinating, and managing the execution of statewide energy efficiency market transformation initiatives in concert with other state energy efficiency activities, subject to the commission's oversight and that carries out its duties in consultation with the Energy Commission and all interested local publicly owned electric utilities, would assist the state in advancing its energy efficiency and greenhouse gas reduction goals.*

*(2) It is the intent of the Legislature that demand-side energy management programs should be coordinated, to the extent practicable, to support utility customers in making well-informed, cost-effective decisions about investments in onsite energy efficiency, demand response, and renewable distributed generation, and to provide efficiencies in the administration and delivery of ratepayer-funded demand-side energy management programs in California.*

*SEC. 2. Section 399.5 is added to the Public Utilities Code, to read:*

*399.5. (a) For purposes of this section and Section 399.6, the following terms mean the following:*

*(1) "Demand-side energy management programs" has the same meaning as set forth in Section 323.5.*

*(2) "California Market Transformation Administrator" or "CalMTA" means a private contractor selected by the commission to coordinate the planning and execution of the state's efforts to advance electricity and natural gas energy efficiency through long-term market transformation strategies.*

*(3) "Market transformation" means a strategic process to intervene in a market to create lasting change in market behavior by removing identified barriers or exploiting opportunities to accelerate the adoption of all cost-effective energy efficiency as a matter of standard practice.*

*(4) "Resources acquisition" means the generation of electricity or natural gas savings that are sufficiently reliable, predictable,*

*and measurable to replace electricity or natural gas supplies in the utility energy resource planning process.*

*(b) (1) In carrying out its responsibilities to ensure that prudent investments in energy efficiency are made and produce cost-effective energy savings, reduce customer demand, and support the state's greenhouse gas emissions reduction goals, the commission, on or before July 1, 2017, shall contract with an independent entity to serve as the California Market Transformation Administrator that will coordinate the planning and execution of the state's efforts to advance energy efficiency through long-term market transformation strategies, as well as advise on and otherwise assist the commission with the coordination of demand-side energy management programs under the commission's jurisdiction.*

*(2) The initial CalMTA contract shall be for a period of not less than five years and may be terminated if the CalMTA fails to meet the performance benchmarks established in the contract.*

*(c) (1) An entity eligible to be a CalMTA shall have a mission that is fully aligned with promoting energy efficiency and conservation, including market transformation.*

*(2) The CalMTA shall carry out its marketing, education, and outreach-related energy efficiency market transformation and the coordination of demand-side energy management programs under the Energy Upgrade California brand name.*

*(d) The commission shall require the CalMTA, at a minimum, to do all of the following:*

*(1) Work in concert with other energy efficiency administrators carrying out energy efficiency activities under the commission's oversight to incorporate long-term market transformation strategies into the state's portfolio.*

*(2) Create market conditions that will accelerate and sustain the market adoption of emerging energy efficiency products, services, and practices in California.*

*(3) Meet interim and long-term targets adopted by the commission related to the transformation of targeted markets, as well as provide a cost-effective portfolio of market transformation initiatives over the life of the contract.*

*(4) Submit to the commission quarterly reports detailing expenditures, and annual reports showing expenditures and*

*progress towards commission-established interim and long-term targets.*

*(5) Contribute improved efficiencies in the delivery of ratepayer-funded energy efficiency activities in California by taking a statewide approach to defined markets targeted for transformation.*

*(6) Coordinate the planning for and execution of market transformation initiatives, as appropriate, with utility administered energy efficiency activities, other energy efficiency activities under the commission's jurisdiction, including, but not limited to, energy efficiency activities administered by community choice aggregators pursuant to Section 381.1, and low-income energy efficiency programs in California, including the rate-payer funded program required by Section 2790 and overseen by the commission, as well as the federal Low-Income Home Energy Assistance Program administered by the Department of Community Services and Development.*

*(7) Build upon the energy efficiency expertise and capabilities developed in the state, such as by providing flexibility for other energy efficiency administrators to carry out some of the market transformation activities identified by the CalMTA, so as to minimize confusion and leverage existing relationships between utilities, community choice aggregators, and other providers of energy efficiency services, and their customers.*

*(8) Work with the Energy Commission to encourage local publicly owned electric utilities to participate in the CalMTA's planning efforts and provide funding for and otherwise support the market transformation initiatives administered by the CalMTA to ensure statewide consistency and full market deployment.*

*(9) Collaborate with regional and national energy efficiency entities on market transformation efforts.*

*(e) The commission shall protect ratepayers from performance risks inherent in market transformation initiatives by, at a minimum, doing all of the following:*

*(1) Requiring a rigorous upfront vetting process for program concepts, to be conducted either by the commission as part of its oversight function or by the CalMTA. The CalMTA shall make a convincing case that each proposed market intervention would produce lasting energy efficiency benefits that would more than pay for the long-term costs of the market intervention.*

*(2) Balancing the level of ratepayer investment in market transformation initiatives against resources acquisition initiatives, such that:*

*(A) The budget for market transformation initiatives, including the budget to be managed by the CalMTA and the commission's costs associated with managing the contract with the CalMTA, is initially set by the commission at a level between 5 percent and 10 percent of the total budget for energy efficiency activities overseen by the commission, excluding low-income energy efficiency programs.*

*(B) The reasonableness of the initial funding level for market transformation initiatives is evaluated by the commission over the course of the initial contract term with the CalMTA and adjusted as the commission deems appropriate to support the objectives of this section.*

*(3) Continuously evaluating the market transformation initiatives administered by the CalMTA and focusing on whether the targeted markets are evolving in the manner intended, such that the initiatives can be corrected mid-course or abandoned, as necessary, to maximize long-term energy savings from the CalMTA's portfolio of initiatives.*

*(f) In implementing this section, the commission shall consult with the Energy Commission to ensure that functions carried out by the CalMTA are appropriately coordinated with the energy efficiency related activities conducted or overseen by the Energy Commission.*

*(g) The commission shall evaluate and adopt, as necessary, new criteria to support and accurately evaluate the benefits of market transformation.*

*(h) The commission, in consultation with the Energy Commission and the CalMTA, shall determine when and how to reflect potentially achievable cost-effective electricity and natural gas savings from energy efficiency market transformation initiatives in carrying out its obligations pursuant to Sections 454.55 and 454.56. In setting energy efficiency targets for electrical or gas corporations pursuant to Section 454.55 or 454.56, the commission shall consider whether energy savings expected to be delivered through market transformation initiatives administered by the CalMTA should be excluded from the targets established for the electrical or gas corporations.*

*SEC. 3. Section 399.6 is added to the Public Utilities Code, to read:*

*399.6. (a) The commission shall consult with the CalMTA on how best to integrate demand-side energy management programs to support utility customers in making well-informed, cost-effective decisions about investment in onsite energy efficiency, demand response, and renewable distributed generation, as well as customer-sited energy storage systems, and to provide economic and organizational efficiencies in the administration and delivery of ratepayer-funded demand-side energy management programs in California.*

*(b) The commission shall consult with the CalMTA on how best to design and deploy demand-side energy management programs and encourage customer-sited energy storage systems so as to provide the most cost-effective environmental and economic benefits from an electric system planning and operation perspective.*

*(c) The commission shall include in the contract executed with a CalMTA pursuant to Section 399.5 the advisory functions specified in this section related to integrating demand-side energy management programs.*

*SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

**All matter omitted in this version of the bill appears in the bill as introduced in the Senate, February 27, 2015. (JR11)**

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