

AMENDED IN ASSEMBLY MAY 22, 2006

AMENDED IN ASSEMBLY MAY 10, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2573**

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**Introduced by Assembly Member Leno**

February 23, 2006

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An act to amend Section 2828 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2573, as amended, Leno. Electricity: Hetch Hetchy Water and Power solar generation.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the City and County of San Francisco to elect to designate specific photovoltaic generation facilities meeting specified conditions as Hetch Hetchy Water and Power (HHWP) solar generation facilities, and upon election and the filing and acceptance of an advice letter with the commission establishing rates, Pacific Gas and Electric Company (PG&E) is required on a monthly basis, to credit the City and County of San Francisco for the certain electricity generated and delivered to the electric grid in accordance with specified rate criteria. Existing law provides that the HHWP photovoltaic electricity generation facilities may not exceed 5 megawatts of peak generation capacity in total. Existing law provides that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. Existing law

provides that where, after a true-up process is completed, the total electricity delivered to the site by PG&E is less than the total electricity delivered to the grid by the HHWP photovoltaic facility at the site, the City and County of San Francisco is a net energy producer at that site and receives no credit or offset for the excess electricity exported to the grid from the site.

This bill would authorize 2 different HHWP photovoltaic electricity generation mechanisms. The existing authorization, as modified, would apply to HHWP at-site solar generation, as defined. The bill would provide that HHWP at-site solar generation may not, exclusive of qualifying remote new load, as defined, exceed 15 megawatts of peak generation capacity in total. The bill would additionally authorize the City and County of San Francisco to use HHWP remote solar generation, as defined, to supply electricity to qualifying remote new load by designating those facilities to be served by HHWP remote solar generation. The bill would delete the provision that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. The bill would require that PG&E accept any electricity exported to the grid by HHWP remote solar generation, up to the amount of electricity contemporaneously being used by the qualifying remote new load, and to treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote new load. The bill would require that *the appropriate regulatory agency ensure that* the delivery of electricity by HHWP remote solar generation to qualifying remote new load, and the granting of offsets to the City and County of San Francisco, not result in a net shifting of costs to bundled service customers of ~~Pacific Gas and Electric Company~~.

Existing law provides that if the City and County of San Francisco engages in retail sales to customers within the service territory of PG&E, the above described provisions relative to HHWP solar generation become inoperative.

This bill would delete this provision.

(2) The bill would declare that, due to the special circumstances applicable only to HHWP solar generation facilities, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

(3) Under existing law, a violation of the Public Utilities Act, a filed tariff, or an order of the commission is a crime.

Because the provisions of this bill would require the filing of a new tariff, the bill would impose a state-mandated local program by creating a new crime.

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. Section 2828 of the Public Utilities Code is  
2 amended to read:

3 2828. (a) As used in this section, the following terms have  
4 the following meanings:

5 (1) “Environmental attributes” associated with the Hetch  
6 Hetchy Water and Power (HHWP) at-site solar generation and  
7 HHWP remote solar generation include, but are not limited to,  
8 the credits, benefits, emissions reductions, environmental air  
9 quality credits, and emissions reduction credits, offsets, and  
10 allowances, however entitled, resulting from the avoidance of the  
11 emission of any gas, chemical, or other substance attributable to  
12 the Hetch Hetchy Water and Power photovoltaic electricity  
13 generation facility owned by the City and County of San  
14 Francisco.

15 (2) “HHWP at-site solar generation” means the electricity  
16 generated by Hetch Hetchy Water and Power photovoltaic  
17 electricity generation facilities owned by the City and County of  
18 San Francisco, designated by the City and County of San  
19 Francisco pursuant to subdivision (b).

20 (3) “HHWP remote solar generation” means the electricity  
21 generated by Hetch Hetchy Water and Power photovoltaic  
22 electricity generation facilities owned by the City and County of  
23 San Francisco, designated by the City and County of San  
24 Francisco pursuant to subdivision (h), to provide electricity to  
25 qualifying remote new load.

1 (4) “Interconnection Agreement” means the 1987 agreement  
2 between Pacific Gas and Electric Company and the City and  
3 County of San Francisco, as filed with and accepted by the  
4 Federal Energy Regulatory Commission (FERC), and as  
5 amended from time to time with FERC approval, which provides  
6 for rates for transmission, distribution, and sales of supplemental  
7 electricity to the City and County of San Francisco. Nothing in  
8 this section shall waive or modify the rights of parties under the  
9 Interconnection Agreement or the jurisdiction of the FERC over  
10 rates set forth in the Interconnection Agreement.

11 (5) “Appropriate TOU tariff” means the Time-of-Use tariff  
12 that would be applicable to the City and County of San Francisco  
13 account at the photovoltaic project site if the facility at the site  
14 were a Pacific Gas and Electric Company bundled customer, as  
15 determined by Pacific Gas and Electric Company.

16 (6) “Qualifying remote new load” means electricity demand of  
17 the City and County of San Francisco for public purposes  
18 pursuant to the Raker Act (Public Law 63-41, 38 Stat. 412), at a  
19 site that is separate from, and not adjacent to, the site where the  
20 photovoltaic project is located, and serviced through a meter or  
21 multiple meters other than those serving the site where the  
22 photovoltaic project is located. The separate or remote site may  
23 be designated by the City and County of San Francisco, both  
24 inside and outside of the City and County of San Francisco, at a  
25 facility that begins operations after January 1, 2006. There is no  
26 wattage limit on qualifying remote new load.

27 (b) The City and County of San Francisco may elect to  
28 designate specific photovoltaic electricity generation facilities as  
29 HHWP at-site solar generation, if all of the following conditions  
30 are met:

31 (1) Total peak generating capacity does not exceed 15  
32 megawatts.

33 (2) The photovoltaic project utilizes a meter, or multiple  
34 meters, capable of separately measuring electricity flow in both  
35 directions. All meters shall provide “time-of-use” measurement  
36 information. If the existing meter at the site of the photovoltaic  
37 project is not capable of providing time-of-use information or is  
38 not capable of separately measuring total flow of energy in both  
39 directions, the City and County of San Francisco is responsible  
40 for all expenses involved in purchasing and installing a meter or

1 meters that are both capable of providing time-of-use information  
2 and able to separately measure total electricity flow in both  
3 directions.

4 (3) The amount of all electricity delivered to the electric grid  
5 by the designated HHWP at-site solar generation is the property  
6 of Pacific Gas and Electric Company.

7 (4) The City and County of San Francisco does not sell  
8 electricity delivered to the electric grid from the designated  
9 HHWP at-site solar generation to a third party.

10 (c) For each site of a photovoltaic project that comprises the  
11 HHWP at-site solar generation, Pacific Gas and Electric  
12 Company shall identify the appropriate TOU tariff for that site.  
13 Any electricity exported to the Pacific Gas and Electric Company  
14 grid at that site that is not generated from HHWP remote solar  
15 generation pursuant to subdivision (h) shall, for each time-of-use  
16 period, result in a monetary credit to be applied monthly as a  
17 credit or offset against the invoice created pursuant to the  
18 Interconnection Agreement and shall be valued at the generation  
19 component of the appropriate TOU tariff. The commission shall  
20 determine if it is appropriate to increase the credit to reflect any  
21 additional value derived from the location or the environmental  
22 attributes of, the designated HHWP at-site solar generation.

23 (d) Monthly charges and credit amounts for HHWP at-site  
24 solar generation are interim and subject to an accounting true-up,  
25 consistent with commission policies and practices. The true-up  
26 shall be performed annually or upon the termination, for any  
27 reason, of the Interconnection Agreement. The true-up shall  
28 accomplish the following:

29 (1) If the total electricity delivered to the site by Pacific Gas  
30 and Electric Company since the previous true-up equals or  
31 exceeds the total electricity exported to the grid by the HHWP  
32 at-site solar generation facility at the site, the City and County of  
33 San Francisco is a net electricity consumer at that site. For any  
34 HHWP at-site solar generation site where the City and County of  
35 San Francisco is a net electricity consumer, a credit or offset  
36 shall be applied to reduce the obligations of the City and County  
37 of San Francisco to an invoice prepared pursuant to the  
38 Interconnection Agreement. If there is no invoiced obligation to  
39 be reduced, there is no applicable credit.

1 (2) If the total electricity delivered to the site by Pacific Gas  
2 and Electric Company since the previous true-up is less than the  
3 total electricity exported to the grid by the HHWP at-site solar  
4 generation facility at the site, the City and County of San  
5 Francisco is a net electricity producer at that site. For any HHWP  
6 at-site solar generation site where the City and County of San  
7 Francisco is a net electricity producer, the City and County of  
8 San Francisco shall receive no credit or offset for the electricity  
9 exported to the grid in excess of the electricity delivered to the  
10 site from the grid. For any site where the City and County of San  
11 Francisco is a net electricity producer, the City and County of  
12 San Francisco shall receive a credit or offset up to the amount of  
13 electricity delivered to the site from the grid. The credit or offset  
14 shall be applied to reduce the obligations of the City and County  
15 of San Francisco to an invoice prepared pursuant to the  
16 Interconnection Agreement. If there is no invoiced obligation to  
17 be reduced, there is no applicable credit or offset. Pacific Gas and  
18 Electric Company shall use the last-in, first-out method to  
19 determine what electricity delivered to the grid from the site will  
20 not earn a credit or offset.

21 (e) Pursuant to this section, the offset to charges under the  
22 Interconnection Agreement is the medium to convey credits  
23 earned under this section. Nothing in this section shall be  
24 construed to affect in any way the rights and obligations of the  
25 City and County of San Francisco and Pacific Gas and Electric  
26 Company under the Interconnection Agreement. If the  
27 Interconnection Agreement terminates, the City and County of  
28 San Francisco and Pacific Gas and Electric Company shall  
29 develop an alternative mechanism to convey credits earned under  
30 this section, in a manner that accomplishes the same result as that  
31 accomplished pursuant to the Interconnection Agreement.

32 (f) (1) Pacific Gas and Electric Company shall file an advice  
33 letter with the commission, that complies with this section, not  
34 later than 10 days after the City and County of San Francisco  
35 first designates the specific generation facilities that will  
36 comprise HHWP at-site solar generation.

37 (2) The commission, within 30 days of the date of filing of the  
38 advice letter, shall approve the advice letter or specify  
39 conforming changes to be made by Pacific Gas and Electric  
40 Company to be filed in an amended advice letter within 30 days.

1 (g) The City and County of San Francisco may terminate its  
2 election pursuant to subdivisions (b), (c), and (d), upon providing  
3 Pacific Gas and Electric Company with a minimum of 60 days'  
4 written notice.

5 (h) (1) The City and County of San Francisco may elect to  
6 designate specific photovoltaic electricity generation facilities as  
7 HHWP remote solar generation and may use HHWP remote solar  
8 generation to supply electricity to facilities designated as  
9 qualifying remote new load up to the amount of electricity being  
10 used by the qualifying remote new load.

11 (2) The City and County of San Francisco shall receive no  
12 credit or offset for the electricity exported to the grid from  
13 HHWP remote solar generation, in excess of the electricity  
14 delivered from the grid to qualifying remote new load.

15 (3) Pacific Gas and Electric Company shall accept any  
16 electricity exported to the grid by HHWP remote solar  
17 generation, up to the amount of electricity contemporaneously  
18 being used by the qualifying remote new load, and treat the  
19 electricity accepted as behind the meter generation that offsets  
20 the electrical usage of qualifying remote new load.

21 (4) *The appropriate regulatory agency shall ensure that the*  
22 *delivery of electricity by HHWP remote solar generation to*  
23 *qualifying remote new load, and the granting of offsets to the*  
24 *City and County of San Francisco pursuant to this subdivision,*  
25 ~~shall not result in a net~~ *does not result in a* shifting of costs to  
26 bundled service customers, either immediately or over time.

27 (i) Hetch Hetchy Water and Power shall reimburse Pacific Gas  
28 and Electric Company for its reasonable study costs associated  
29 with HHWP remote solar generation to address interconnection,  
30 consistent with Rule 21, and impacts upon the distribution  
31 system resulting from the HHWP remote solar generation. If the  
32 studies identify improvements necessary for the protection of the  
33 Pacific Gas and Electric Company distribution system, for the  
34 protection of its employees, or to ensure reliable delivery of the  
35 electricity generated by the HHWP remote solar generation  
36 facility to qualifying remote new load, Hetch Hetchy Water and  
37 Power shall pay the reasonable costs of the improvements if it  
38 elects to designate the HHWP remote solar generation facility to  
39 provide electricity for qualifying remote new load. For purposes  
40 of this subdivision, "Rule 21" means the Interconnection

1 Standards for distributed generation adopted by the commission  
2 in Decision 00-11-001 and Decision 00-12-037, as modified by  
3 the commission and implemented in commission-authorized  
4 tariff Rule 21.

5 (j) Ownership and use of the environmental attributes  
6 associated with the electricity delivered to the electric grid by  
7 HHWP at-site solar generation and HHWP remote solar  
8 generation shall be determined by the commission in accordance  
9 with Article 16 (commencing with Section 399.11) of Chapter  
10 2.3 of Part 1.

11 SEC. 2. The Legislature finds and declares that, because of  
12 the unique circumstances applicable only to Hetch Hetchy Water  
13 and Power solar generation of electricity, a statute of general  
14 applicability cannot be enacted within the meaning of  
15 subdivision (b) of Section 16 of Article IV of the California  
16 Constitution. Therefore, this special statute is necessary.

17 SEC. 3. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the  
22 penalty for a crime or infraction, within the meaning of Section  
23 17556 of the Government Code, or changes the definition of a  
24 crime within the meaning of Section 6 of Article XIII B of the  
25 California Constitution.