

AMENDED IN SENATE AUGUST 7, 2006

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

Introduced by Assembly Member Leno

February 23, 2006

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 *electricity* 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 by *HHWP solar generation* in accordance with specified rate criteria. Existing law provides that the HHWP photovoltaic electricity generation facilities solar generation 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 *electricity generation* 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 make the City and County of San Francisco responsible for scheduling the electricity exported to the grid from HHWP remote solar generation. The bill would require that HHWP remote solar generation sites and qualifying remote load sites have meters capable of measuring exports and usage of electricity sufficient to determine credits or offsets and would make the City and County of San Francisco responsible for the cost of those meters.* 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 shifting of costs to bundled service customers.

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) *“Appropriate TOU tariff” means the Time-of-Use tariff*
6 *that would be applicable to the City and County of San Francisco*
7 *account at the photovoltaic electricity generation project site if*
8 *the facility at the site were a Pacific Gas and Electric Company*
9 *bundled customer, as determined by Pacific Gas and Electric*
10 *Company.*

11 ~~(1)–~~
12 (2) “Environmental attributes” associated with the Hetch
13 Hetchy Water and Power (HHWP) at-site solar generation and
14 HHWP remote solar generation include, but are not limited to,
15 the credits, benefits, emissions reductions, environmental air
16 quality credits, and emissions reduction credits, offsets, and

allowances, however entitled, resulting from the avoidance of the ~~emission~~ emissions of any gas, chemical, or other substance attributable to the Hetch Hetchy Water and Power photovoltaic electricity generation facility owned by the City and County of San Francisco.

~~(2)~~

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

~~(3)~~

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

~~(4)~~

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

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

(6) “Qualifying remote ~~new load~~” ~~means load~~ means the electricity demand of the City and County of San Francisco for public purposes pursuant to the Raker Act (Public Law 63-41, 38 Stat. 412), at a site that is separate from, and not adjacent to, the site where the photovoltaic project is located, and serviced through a meter or multiple meters other than those serving the

1 site where the photovoltaic project is located. The separate or
2 remote site may be designated by the City and County of San
3 Francisco, both inside and outside of the City and County of San
4 ~~Francisco, at a facility that begins operations after January 1,~~
5 ~~2006.~~ *Francisco. Where the separate or remote site is outside of*
6 *the City and County of San Francisco, it shall be located within*
7 *20 miles of the City and County of San Francisco or within 20*
8 *miles of a HHWP remote solar generation facility.* There is no
9 wattage limit on qualifying remote ~~new~~ load.

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

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

16 (2) The photovoltaic project utilizes a meter, or multiple
17 meters, capable of separately measuring electricity flow in both
18 directions. All meters shall provide “time-of-use” measurement
19 information. If the existing meter at the site of the photovoltaic
20 project is not capable of providing time-of-use information or is
21 not capable of separately measuring total flow of energy in both
22 directions, the City and County of San Francisco is responsible
23 for all expenses involved in purchasing and installing a meter or
24 meters that are both capable of providing time-of-use information
25 and able to separately measure total electricity flow in both
26 directions.

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

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

33 (c) For each site of a photovoltaic *electricity generation*
34 project that comprises the HHWP at-site solar generation, Pacific
35 Gas and Electric Company shall identify the appropriate TOU
36 tariff for that site. Any electricity exported to the Pacific Gas and
37 Electric Company grid at that site that is not generated from
38 HHWP remote solar generation pursuant to subdivision (h) shall,
39 for each time-of-use period, result in a monetary credit to be
40 applied monthly as a credit or offset against the invoice created

1 pursuant to the Interconnection Agreement and shall be valued at
2 the generation component of the appropriate TOU tariff. The
3 commission shall determine if it is appropriate to increase the
4 credit to reflect any additional value derived from the location or
5 the environmental attributes of, the designated HHWP at-site
6 solar generation.

7 (d) Monthly charges and credit amounts for HHWP at-site
8 solar generation are interim and subject to an accounting true-up,
9 consistent with commission policies and practices. The true-up
10 shall be performed annually or upon the termination, for any
11 reason, of the Interconnection Agreement. The true-up shall
12 accomplish the following:

13 (1) If the total electricity delivered to the site by Pacific Gas
14 and Electric Company since the previous true-up equals or
15 exceeds the total electricity exported to the grid by the HHWP
16 at-site solar generation facility at the site, the City and County of
17 San Francisco is a net electricity consumer at that site. For any
18 HHWP at-site solar generation site where the City and County of
19 San Francisco is a net electricity consumer, a credit or offset
20 shall be applied to reduce the obligations of the City and County
21 of San Francisco to an invoice prepared pursuant to the
22 Interconnection Agreement. If there is no invoiced obligation to
23 be reduced, there is no applicable credit.

24 (2) If the total electricity delivered to the site by Pacific Gas
25 and Electric Company since the previous true-up is less than the
26 total electricity exported to the grid by the HHWP at-site solar
27 generation facility at the site, the City and County of San
28 Francisco is a net electricity producer at that site. For any HHWP
29 at-site solar generation site where the City and County of San
30 Francisco is a net electricity producer, the City and County of
31 San Francisco shall receive no credit or offset for the electricity
32 exported to the grid in excess of the electricity delivered to the
33 site from the grid. For any site where the City and County of San
34 Francisco is a net electricity producer, the City and County of
35 San Francisco shall receive a credit or offset up to the amount of
36 electricity delivered to the site from the grid. The credit or offset
37 shall be applied to reduce the obligations of the City and County
38 of San Francisco to an invoice prepared pursuant to the
39 Interconnection Agreement. If there is no invoiced obligation to
40 be reduced, there is no applicable credit or offset. Pacific Gas and

1 Electric Company shall use the last-in, first-out method to
2 determine what electricity delivered to the grid from the site will
3 not earn a credit or offset.

4 (e) Pursuant to this section, the offset to charges under the
5 Interconnection Agreement is the medium to convey credits
6 earned under this section. Nothing in this section shall be
7 construed to affect in any way the rights and obligations of the
8 City and County of San Francisco and Pacific Gas and Electric
9 Company under the Interconnection Agreement. If the
10 Interconnection Agreement terminates, the City and County of
11 San Francisco and Pacific Gas and Electric Company shall
12 develop an alternative mechanism to convey credits earned under
13 this section, in a manner that accomplishes the same result as that
14 accomplished pursuant to the Interconnection Agreement.

15 (f) (1) Pacific Gas and Electric Company shall file an advice
16 letter with the commission, that complies with this section, not
17 later than 10 days after the City and County of San Francisco
18 first designates the specific *photovoltaic electricity* generation
19 facilities that will comprise HHWP at-site solar generation.

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

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

28 (h) (1) The City and County of San Francisco may elect to
29 designate specific photovoltaic electricity generation facilities as
30 HHWP remote solar generation and may use HHWP remote solar
31 generation to supply electricity to facilities designated as
32 qualifying remote-~~new~~ load up to the amount of electricity being
33 used by the qualifying remote-~~new~~ load.

34 (2) The City and County of San Francisco shall receive no
35 credit or offset for the electricity exported to the grid from
36 HHWP remote solar generation, in excess of the electricity
37 delivered from the grid to qualifying remote-~~new~~ load.

38 (3) Pacific Gas and Electric Company shall accept any
39 electricity exported to the grid by HHWP remote solar
40 generation, up to the amount of electricity contemporaneously

1 being used by the qualifying remote~~new~~ load, and treat the
2 electricity accepted as behind the meter generation that offsets
3 the electrical usage of qualifying remote~~new load~~ load.

4 (4) *The City and County of San Francisco shall be responsible*
5 *for scheduling the electricity exported to the grid from HHWP*
6 *remote solar generation.*

7 (5) *Both HHWP remote solar generation sites and qualifying*
8 *remote load sites shall have meters capable of measuring exports*
9 *and usage of electricity that will support determination of credits*
10 *or offsets pursuant to paragraph (2). The City and County of San*
11 *Francisco shall be responsible for the costs of the meters*
12 *required pursuant to this section.*

13 (6) *To compensate Pacific Gas & Electric Company for the*
14 *use of its distribution facilities, the City and County of San*
15 *Francisco shall pay applicable distribution rates, transmission*
16 *rates, or distribution and transmission rates, as determined by*
17 *the Interconnection Agreement, for all energy delivered to*
18 *qualifying remote load that comes from HHWP remote solar*
19 *generation.*

20 ~~(4)~~

21 (7) 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 ~~does~~ do not result in a shifting of costs to bundled service
26 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.