

## Assembly Bill No. 2573

### CHAPTER 786

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

[Approved by Governor September 29, 2006. Filed with  
Secretary of State September 29, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2573, 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 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 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 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 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 load, and to treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote 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 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.

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

SECTION 1. Section 2828 of the Public Utilities Code is amended to read:

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

(1) "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 electricity generation facility site if the facility at the site were a Pacific Gas and Electric Company bundled customer, as determined by Pacific Gas and Electric Company.

(2) “Environmental attributes” associated with the Hetch Hetchy Water and Power (HHWP) at-site solar generation and HHWP remote solar generation include, but are not limited to, the credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, however entitled, resulting from the avoidance of the 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.

(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).

(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 load.

(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.

(6) “Qualifying remote load” means the electricity demand of the City and County of San Francisco for load served under the Interconnection Agreement, at sites that are separate from, and not adjacent to, the sites where the photovoltaic electricity generation facility is located, and serviced through a meter or multiple meters other than those serving the sites where the photovoltaic electricity generation facility is located. The separate or remote sites may be designated by the City and County of San Francisco, both inside and outside of the City and County of San Francisco. Where the separate or remote sites are outside of the City and County of San Francisco, they shall be located within 20 miles of the City and County of San Francisco or within 20 miles of a HHWP remote solar generation facility. There is no wattage limit on qualifying remote load.

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

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

(2) The photovoltaic electricity generation facility utilizes a meter, or multiple meters, capable of separately measuring electricity flow in both directions. All meters shall provide “time-of-use” measurement information. If the existing meter at the site of the facility is not capable of providing time-of-use information or is not capable of separately

measuring total flow of energy in both directions, the City and County of San Francisco is responsible for all expenses involved in purchasing and installing a meter or meters that are both capable of providing time-of-use information and able to separately measure total electricity flow in both directions.

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

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

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

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

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

(2) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up is less than the total electricity exported to the grid by the HHWP at-site solar generation facility at the site, the City and County of San Francisco is a net electricity producer at that site. For any HHWP at-site solar generation site where the City and County of San Francisco is a net electricity producer, the City and County of San Francisco shall receive no credit or offset for the electricity exported to the grid in excess of the electricity delivered to the site from the grid. For any site where the City and County of San

Francisco is a net electricity producer, the City and County of San Francisco shall receive a credit or offset up to the amount of electricity delivered to the site from the grid. The credit or offset shall be applied to reduce the obligations of the City and County of San Francisco to an invoice prepared pursuant to the Interconnection Agreement. If there is no invoiced obligation to be reduced, there is no applicable credit or offset. Pacific Gas and Electric Company shall use the last-in, first-out method to determine what electricity delivered to the grid from the site will not earn a credit or offset.

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

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

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

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

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

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

(3) Pacific Gas and Electric Company shall 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 load, and treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote load. Additional rates may apply pursuant to paragraph (6).

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

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

(6) To compensate Pacific Gas and Electric Company for the use of its facilities, the City and County of San Francisco shall pay applicable distribution rates, transmission rates, or distribution and transmission rates, at rate levels determined by the Interconnection Agreement, for all energy delivered to qualifying remote load that comes from HHWP remote solar generation. When HHWP remote solar generation and the qualifying remote load it serves are located within the City and County of San Francisco and are interconnected at distribution voltage, the applicable rate for delivery of energy from HHWP remote solar generation shall be reduced as negotiated pursuant to the Interconnection Agreement.

(7) The appropriate regulatory agency shall ensure that the delivery of electricity by HHWP remote solar generation to qualifying remote load, and the granting of offsets to the City and County of San Francisco pursuant to this subdivision, do not result in a shifting of costs to bundled service customers, either immediately or over time.

(i) Hetch Hetchy Water and Power shall reimburse Pacific Gas and Electric Company for its reasonable study costs associated with HHWP remote solar generation to address interconnection, consistent with applicable regulatory rules, and impacts upon the electric system resulting from the HHWP remote solar generation. If the studies identify improvements necessary for the protection of the Pacific Gas and Electric Company electric system, for the protection of its employees, or to ensure reliable delivery of the electricity generated by the HHWP remote solar generation facility to qualifying remote load, Hetch Hetchy Water and Power shall pay the reasonable costs of the improvements if it elects to designate the HHWP remote solar generation facility to provide electricity for qualifying remote load.

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

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

SEC. 3. 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 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.

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