AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 14, 2009

# SENATE BILL No. 32

**Introduced by Senator Negrete McLeod**

December 2, 2008

An act to amend Section 399.20 of, and to add Section 387.6 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 32, as amended, Negrete McLeod. Renewable electric generation facilities.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity by electrical corporations and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). Under existing law the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into

consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that is owned and operated by a retail customer of the electrical corporation. Existing law requires that the electric generation facility: (1) have an effective capacity of not more than 1.5 megawatts and be located on property owned or under the control of the customer, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system 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 renewables portfolio standard program. Existing law requires that the tariff provide for payment for every kilowatthour of electricity generated by an electric generation facility at a market price referent established by the commission pursuant to the renewables portfolio standard program. Existing law requires the electrical corporation to make this tariff available to customers that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 500 megawatts, or the electrical corporation meets its proportionate share of the 500 megawatt limit based upon the ratio of its peak demand to total statewide peak demand of all electrical corporations. Existing law authorizes the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit. Existing law provides that the electricity generated by an electric generation facility counts toward the electrical corporation's renewables portfolio standard and provides that the physical generating capacity counts toward meeting the electrical corporation's resource adequacy requirements.

This bill would require an electrical corporation to file with the commission a standard tariff for the electricity purchased from an electric generation facility that is located within the service territory of, and developed to sell electricity to, the electrical corporation. The bill would revise the first requirement, discussed above, to instead require that the electric generation facility have an effective capacity of not more than 3 megawatts, subject to the authority of the commission to reduce this megawatt limitation, discussed below, and would delete the requirement that the facility be located on property owned or under the control of the customer. The bill would revise the third requirement, discussed above, to require that the electric generation facility be strategically located and interconnected to the electric grid in a manner that is considered deliverable to load, pursuant to the deliverability assessments of the Independent System Operator (ISO). The bill would require that the tariff provide for payment for every kilowatthour of electricity purchased from an electric generation facility for a period of 10, 15, or 20 years, as authorized by the commission. The bill would require that the payment be the market price referent established by the commission pursuant to the renewables portfolio standard program. The bill would authorize the commission to adjust the payment to reflect the value of the electricity on a time-of-delivery basis and any other attributes of renewable generation and require, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether other ratepayers receive service pursuant to the tariff. The bill would require the commission to consider, and would authorize the commission to establish, a value for an electric generation facility located on a distribution circuit that offsets the peak demand on that circuit. The bill would require an electrical corporation to provide expedited interconnection procedures to *an* electric generation ~~facilities~~ *facility* located on a distribution circuit that offsets peak demand on that circuit, *if the electrical corporation determines that the electric generation facility will not adversely affect the distribution grid*. The bill would require the electrical corporation to make the tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities subject to tariffs with electrical corporations reaches 500 megawatts, or its proportionate share of that limit. The bill would provide that the electricity purchased from an electric generation facility counts toward meeting the electrical corporation's renewables portfolio standard and that electricity generated by the electric generation facility counts toward meeting the electrical corporation's resource adequacy requirements. The bill would require the commission, in consultation with the ISO, to monitor and examine the impact on the transmission and distribution grid and any effects upon ratepayers resulting from electric generation facilities operating pursuant to the bill's provisions, would require the commission to establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability, and would authorize the commission to reduce the 3 megawatt capacity limitation if the commission finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory. The bill would recast the existing authority of the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.

This bill would provide that an owner or operator of an electric generation facility that received ratepayer-funded incentives and participated in a net metering program prior to January 1, 2010, would be eligible for a tariff or standard contract filed by an electrical corporation pursuant to the above-described provisions. An owner or operator that receives service pursuant to a tariff or standard contract adopted by an electrical corporation pursuant to the above-described provisions is not eligible to participate in any net metering program.

This bill would require a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. The bill would require the local publicly owned electric utility to make the tariff available to owners and operators of an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities subject to tariffs with local publicly owned electric utilities reaches 250 megawatts. The bill would provide that the electricity purchased from an electric generation facility counts towards meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime. Because this bill would require an order or other action of the commission to implement its provisions, and a violation of that order or action would be a crime, the bill would impose a state-mandated local program by creating a new crime. By placing additional requirements upon local publicly owned electric utilities, which are entities of local government, the bill would impose a state-mandated local program.

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:*

SECTION 1. The Legislature finds and declares all of the following:

(a) While the first goal in meeting the state's energy needs should be to reduce energy demand through cost-effective improvements in energy efficiency, the state should also encourage the location of clean generation close to load centers in order to meet increases in the demand for electricity.

(b) Some tariff structures and regulatory structures are presenting a barrier to meeting the requirements and goals of the California Renewables Portfolio Standard Program (Section 387 of, and Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code).

(c) Small projects of less than three megawatts that are otherwise eligible renewable energy resources may face difficulties in participating in competitive solicitations under the renewables portfolio standard program.

(d) A tariff that allows owners or operators of electric generation facilities that are eligible renewable energy resources to sell electricity generated by those facilities to electrical corporations and local publicly owned electric utilities would address these barriers and could assist in the achievement of the renewables portfolio standard and the state's goals for reducing emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006.

(e) A tariff for electricity generated by renewable technologies should recognize the environmental attributes of the renewable technology, the characteristics that contribute to peak electricity demand reduction, reduced transmission congestion, avoided transmission and distribution improvements, and in a manner that accelerates the deployment of renewable energy resources.

(f) It is the policy of this state and the intent of the Legislature to encourage the generation of electricity from eligible renewable energy resources located in close proximity to where the electricity will be utilized.

SEC. 2. Section 387.6 is added to the Public Utilities Code, to read:

387.6. (a) It is the policy of the state and the intent of the Legislature to encourage electrical generation from eligible renewable energy resources.

(b) As used in this section, "electric generation facility" means an electric generation facility located within the service territory of, and developed to sell electricity to, a local publicly owned electric utility, and that meets all of the following criteria:

(1) Has an effective capacity of not more than three megawatts.

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

(3) Is strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers.

(4) Is an eligible renewable energy resource pursuant to Article 16 (commencing with Section 399.11).

(c) A local publicly owned electric utility that sells electricity at retail to 75,000 or more customers shall adopt a standard tariff for electricity purchased from an electric generation facility.

(d) The governing board of the local publicly owned electric utility shall ensure that the tariff adopted pursuant to subdivision (c) reflects the value of every kilowatthour of electricity generated on a time-of-delivery basis. The governing board may adjust this value based on the other attributes of renewable generation. The governing board shall ensure, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether a ratepayer with an electric generation facility receives service pursuant to the tariff.

(e) A local publicly owned electric utility that sells electricity at retail to 75,000 or more customers shall make the tariff available to the owner or operator of an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities reaches 250 megawatts. A local publicly owned electric utility may make the terms of the tariff available to owners and operators of an electric generation facility in the form of a standard contract. A local publicly owned electric utility is only required to offer service or contracts under this section until the utility meets its proportionate share of the 250 megawatts based on the ratio of its peak demand to the total statewide peak demand.

(f) Every kilowatthour of electricity purchased from an electric generation facility shall count toward meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets for purposes of Section 387.

(g) (1) A local publicly owned electric utility may establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability.

(2) A local publicly owned electric utility may reduce the three megawatt capacity limitation of paragraph (1) of subdivision (b) if the utility finds that a reduced capacity limitation is necessary.

SEC. 3. Section 399.20 of the Public Utilities Code is amended to read:

399.20. (a) It is the policy of this state and the intent of the Legislature to encourage electrical generation from eligible renewable energy resources.

(b) As used in this section, "electric generation facility" means an electric generation facility located within the service territory of, and developed to sell electricity to, an electrical corporation that meets all of the following criteria:

(1) Has an effective capacity of not more than three megawatts.

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

(3) Is strategically located and interconnected to the electric grid in a manner that is considered deliverable to load, pursuant to the Independent System Operator deliverability assessments.

(4) Is an eligible renewable energy resource.

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

(d) The tariff shall provide for payment for every kilowatthour of electricity purchased from an electric generation facility for a period of 10, 15, or 20 years, as authorized by the commission. The payment shall be the market price determined by the commission pursuant to Section 399.15. The commission may adjust the payment rate to reflect the value of every kilowatthour of electricity generated on a time-of-delivery basis and any other attributes of renewable generation. The commission shall consider and may establish a value for an electric generation facility located on a distribution circuit that generates electricity at a time and in a manner so as to offset the peak demand on the distribution circuit. The commission, in consultation with the Energy Commission, shall establish the cost of generation values and costs for each technology that is an eligible renewable energy resource. The commission shall ensure, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether a ratepayer with an electric generation facility receives service pursuant to the tariff.

(e) ~~Electrical corporations~~ *An electrical corporation* shall provide expedited interconnection procedures to ~~electric generation facilities~~ *an electric generation facility* located on a distribution circuit that generates electricity at a time and in a manner so as to offset the peak demand on the distribution ~~circuit.~~*, if the electrical corporation determines that the electric generation facility will not adversely affect the distribution grid.*

(f) Every electrical corporation shall make this tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities reaches 500 megawatts. An electrical corporation may make the terms of the tariff available to owners and operators of an electric generation facility in the form of a standard contract subject to commission approval. Each electrical corporation shall only be required to offer service or contracts under this section until that electrical corporation meets its proportionate share of the 500 megawatts based on the ratio of its peak demand to the total statewide peak demand.

(g) Every kilowatthour of electricity purchased from an electric generation facility shall count toward meeting the electrical corporation's renewables portfolio standard annual procurement targets for purposes of paragraph (1) of subdivision (b) of Section 399.15.

(h) The electricity generated by an electric generation facility, consistent with Section 380, shall count toward the electrical corporation's resource adequacy requirement.

(i) (1) The commission, in consultation with the Independent System Operator, shall monitor and examine the impact on the transmission and distribution grid and any effects upon ratepayers resulting from electric generation facilities operating pursuant to a tariff or contract approved by the commission pursuant to this section.

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

(3) The commission may reduce the three megawatt capacity limitation of paragraph (1) of subdivision (b) if the commission finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory.

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

(2) In establishing the tariffs or standard contracts pursuant to this section, the commission may consider ratepayer-funded incentive payments previously received by the generation facility pursuant to Section 379.6 or Section 25782 of the Public Resources Code.

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

(k) ~~(1)~~ An owner or operator of an electric generation facility electing to receive service under a tariff or contract approved by the commission shall continue to receive service under the tariff or contract until either of the following occurs:

~~(A)~~

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

~~(B)~~

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

~~(2) Upon completion of the period of service established by the commission pursuant to subdivision (d), the customer may elect to renew receiving service pursuant to the tariff or contract approved by the commission for the period of time then established by the commission, or may elect to receive service under another then applicable tariff.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because certain 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.

With respect to certain other costs, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O