

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 432

Introduced by Assembly Member Nestande

February 24, 2009

~~An act relating to municipal utility districts.~~ *An act to add Section 399.23 to the Public Utilities Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 432, as amended, Nestande. ~~Municipal utility districts.~~ *Renewable energy resources: solar feed-in tariff pilot program for City of Palm Desert.*

Under existing law, the Public Utilities Commission has 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).

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 California 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 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 establish a solar feed-in tariff, as defined, pilot program that is applicable to the City of Palm Desert, which is within the service territory of Southern California Edison Company.

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.

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 existing Municipal Utility District Act authorizes any public agency, as defined, together with unincorporated territory, or 2 or more public agencies, to organize and incorporate as a municipal utility district with the government of the district vested in a board of directors together with other officers as provided by the act.~~

~~This bill would state the intent of the Legislature to enact legislation to reform the manner in which municipal utility districts are organized.~~

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

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

1 SECTION 1. Section 399.23 is added to the Public Utilities
2 Code, to read:

3 399.23. (a) For purposes of this section, the following terms
4 have the following meanings:

5 (1) “Capacity” of a solar energy system means the maximum
6 alternating current rated peak generation of the solar energy
7 system, using the system of measurement employed by the Energy
8 Commission pursuant to Chapter 8.8 (commencing with Section
9 25780) of the Public Resources Code.

10 (2) “Commissioning” means the first time a solar energy system
11 commences to generate electricity following its operational
12 readiness and interconnection to the grid.

13 (3) “Environmental attributes” of electricity generated by a
14 solar energy system include the credits, benefits, emissions
15 reductions, environmental air quality credits, and emissions
16 reduction credits, offsets, and allowances, however entitled,
17 resulting from the avoidance of the emissions of any air
18 contaminant, greenhouse gas, chemical, or other substance
19 attributable to an solar energy system.

20 (4) “kW” means kilowatts or 1,000 watts, as measured from
21 the alternating current side of the solar energy system inverter
22 consistent with Section 223 of Title 15 of the United States Code.

23 (5) “kWh” means kilowatthours, as measured by the number
24 of kilowatts generated in an hour.

25 (6) “MW” means megawatts or 1,000,000 watts.

1 (7) “Solar energy system” means a solar energy device that
2 has the primary purpose of providing for the collection and
3 distribution of solar energy for the generation of electricity,
4 delivered to the electrical distribution and transmission grid within
5 the City of Palm Desert, that produces at least one kW, and not
6 more than one and one-half MW of alternating current rated peak
7 electricity and that is a fixture upon or integrated into a building,
8 parking structure, or other improvement. A solar energy system
9 includes the inverters, access ways, measuring, administrative,
10 and control facilities and devices associated with the system,
11 whether or not necessary for the operation of the particular system,
12 up through the point of interconnection with the grid.

13 (8) “SCE” means the Southern California Edison Company, a
14 California electrical corporation.

15 (9) “Solar feed-in tariff” means a schedule detailing the rates,
16 rules, and terms of service that is filed by SCE and approved by
17 the commission that controls the electrical corporation’s purchase
18 of electricity delivered to the grid that is generated by a
19 tariff-eligible solar energy system within the City of Palm Desert.

20 (10) (A) “Standard-offer contract” means a standardized
21 contract that incorporates the terms of the solar feed-in tariff that
22 is approved by the commission and made available to all persons
23 proposing to construct and operate a solar energy system within
24 the City of Palm Desert.

25 (B) An “optional standard-offer contract” means a standardized
26 contract that is approved by the commission that includes pricing
27 and duration terms that differ from those of the standard-offer
28 contract, and that a tariff-eligible generator may affirmatively
29 elect to accept in lieu of the standard-offer contract.

30 (11) “Tariff-eligible generator” means the owner or operator
31 of a solar energy system that meets the eligibility requirements of
32 this section.

33 (b) SCE shall develop and, upon approval by the commission,
34 implement a solar feed-in tariff and standard-offer contract, that
35 requires payment for every kilowatthour of electricity generated
36 and delivered to the electrical distribution and transmission grid
37 within the City of Palm Desert by a solar energy system that meets
38 the requirements of this section. The solar feed-in tariff and
39 standard-offer contract shall require the tariff-eligible generator
40 to sell, and SCE to purchase, all electricity generated by the solar

1 energy system and delivered to the grid. The commission shall
2 establish the purchase price to be paid by SCE in a ratemaking
3 proceeding. The standard-offer contract shall be written in simple,
4 clear language and be transferrable with the real property on
5 which the solar energy system is located. The standard-offer
6 contract may be used as security for loans. The commission may
7 approve one or more optional standard-offer contracts.

8 (c) Applications for participation in the solar feed-in tariff pilot
9 program shall be simple and clear, require identification of the
10 owner of the solar energy system, require identification of the
11 installer of the solar energy system, identify the precise location
12 of the solar energy system, and identify the type and size of the
13 solar energy system. The commission shall require SCE to process
14 all applications within 30 days, except upon a showing of good
15 cause made to the commission by SCE with respect to particular
16 applications that cannot be processed within 30 days. The
17 commission shall require that commissioning of the solar energy
18 system occur within one year of the approval of the application.
19 Any solar energy system that is not commissioned within one year
20 shall be required to submit a new application to be eligible for the
21 solar feed-in tariff or standard-offer contract. The commission
22 shall require that all solar energy systems comply with electrical
23 code and fire safety standards. The commission may provide
24 training for local building inspectors responsible for inspecting
25 solar energy systems.

26 (d) The price, or schedule of prices, paid by SCE pursuant to
27 the solar feed-in tariff shall be for a duration of 20 years following
28 the date of commissioning. The price, or schedule of prices, paid
29 by SCE pursuant to the standard-offer contract shall be for 20
30 years duration. The commission may approve one or more optional
31 standard-offer contracts that includes pricing and duration terms
32 that differ from those of the standard-offer contract. The price
33 paid shall be that price, or schedules of prices, approved by the
34 commission that is in effect at the time the application is submitted,
35 with payments commencing with commissioning of the solar energy
36 system. The purchase price, or schedule of prices, shall be
37 established so as to provide the tariff-eligible generator just and
38 reasonable compensation for the value of the electricity generated
39 by the solar energy system and delivered to the grid, including the
40 environmental attributes of that electricity. The price, or schedule

1 of prices, shall be set forth in the standard-offer contract. The
2 price, or schedule of prices, shall reflect the expenses incurred by
3 SCE to read meters to determine the amount of electricity that is
4 delivered to the grid by the solar energy system.

5 (e) The feed-in tariff and standard-offer contract shall be
6 reviewed and, if needed, updated by the commission on a biannual
7 (every two years) basis. The updated feed-in tariff and
8 standard-offer contract would be applicable to those solar energy
9 systems for which the application is submitted subsequent to the
10 operative date of the update. In its biannual review, the commission
11 shall consider the success of the solar feed-in tariff in encouraging
12 the installation of solar energy systems and any adjustments that
13 should be made to reflect actual average system costs and
14 production of each type and size and location of solar energy
15 systems, inflation, interest rates, a determination of what is a
16 reasonable and reliable return of investment, and the rates paid
17 by ratepayers of the electrical corporation for electric service.

18 (f) Upon the expiration of the 20-year term of the standard-offer
19 contract, SCE shall continue to purchase all electricity delivered
20 to the grid by the solar energy system upon those terms and
21 conditions that the commission determines are just and reasonable.

22 (g) (1) The commission shall, in consultation with the Energy
23 Commission, electrical corporations, and the distributed generation
24 industry, develop and implement rules for interconnection of solar
25 energy systems to the distribution grid of the electrical corporation.

26 (2) It is the intent of the Legislature that the commission
27 continue to apply Rule 21, as revised in Decisions 00-12-037 and
28 01-07-027, to interconnections by solar energy systems to the SCE
29 distribution system, without codifying that rule, in order that the
30 commission retain flexibility over interconnections resulting from
31 changing circumstances and technological advancements.

32 (3) This subdivision does not limit the ability of a tariff-eligible
33 generator to interconnect a solar energy system to the transmission
34 grid pursuant to the Small Generator Interconnection Protocol of
35 the Independent System Operator and approved by the Federal
36 Energy Regulatory Commission.

37 (h) (1) Every kilowatthour of electricity generated by a solar
38 energy system that is delivered to the grid shall be credited to
39 SCE's renewables portfolio standard annual procurement targets
40 for purposes of this article.

1 (2) Every kilowatthour of electricity generated by a solar energy
2 system shall be credited toward any renewable energy procurement
3 requirement imposed upon SCE pursuant to the California Global
4 Warming Solutions Act of 2006 (Division 25.5 (commencing with
5 Section 38500) of the Health and Safety Code).

6 (3) Ownership and use of the environmental attributes
7 associated with the electricity delivered to the grid by the solar
8 energy system, including any renewable energy credits, shall
9 belong to SCE.

10 (i) Net expenses incurred by SCE for implementation of the
11 solar feed-in tariff and standard-offer contract pursuant to this
12 section shall be fully recoverable by SCE in rates.

13 (j) The commission may request a tariff-eligible generator or
14 SCE to annually provide information necessary or useful to the
15 commission in its oversight of the solar feed-in tariff pilot program,
16 including information relative to project development costs,
17 equipment costs, electricity production costs, interconnection costs,
18 automatic rate adjustments, compliance costs, capacity installed,
19 and actual electricity generated and delivered to the grid. The
20 commission may prepare a standardized simple form for the annual
21 collection of information necessary or useful to its oversight of
22 the program.

23 (k) The commission shall report to the Governor and the
24 Legislature by January 31 of each even numbered year, all of the
25 following:

26 (1) The number of solar energy systems participating under the
27 solar feed-in tariff pilot program and the cumulative generating
28 capacity of those systems.

29 (2) Actual deliveries of electricity to the grid as a result of the
30 solar feed-in tariff pilot program.

31 (3) The actions undertaken by the commission to implement the
32 solar feed-in tariff pilot program and, when applicable, the results
33 of the biannual review.

34 (4) Any revisions to the solar feed-in tariff pilot program to
35 reflect inflation, changes in technology, and the increased or
36 decreased costs of solar photovoltaic generation of electricity.

37 (5) The impact of the solar feed-in tariff pilot program on rates
38 paid by the ratepayers of SCE.

39 (6) Any recommended changes to the solar feed-in tariff pilot
40 program.

1 (7) *Recommendations for whether the solar feed-in tariff pilot*
2 *program should be expanded to areas outside the City of Palm*
3 *Desert.*

4 *SEC. 2. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *the only costs that may be incurred by a local agency or school*
7 *district will be incurred because this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

13 ~~SECTION 1. It is the intent of the Legislature to enact~~
14 ~~legislation to reform the manner in which municipal utility districts~~
15 ~~are organized.~~