

AMENDED IN SENATE JUNE 19, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 26**

**Introduced by Assembly Member Calderon**

May 17, 2001

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An act to add Section 380 to and repeal 39925 to the Health and Safety Code, and to add Section 743.2 to, and to amend Section 353.13 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, as amended, Calderon. Electrical energy: ~~natural gas generators~~; air pollution.

(1) Existing law contains various provisions relative to air pollution control.

This bill would require the State Air Resources Board, on or before August 1, 2001, in consultation with the Independent System Operator, air quality management districts, air pollution control districts, and the owners and operators of fossil-fueled electrical generating facilities in the state, to establish an environmental dispatch procedure to minimize nitrogen oxide emissions from generating facilities consistent with maintaining electric system reliability. Under the provisions of the bill, the environmental dispatch procedure will apply only to those units that have exhausted the allowable emission credits or hours under a local air district permit. The bill would authorize the Independent System Operator to deviate from the environmental dispatch procedure where necessary to preserve the reliability of the transmission grid. The bill would require the State Air Resources Board and the Independent System Operator to submit a report to the Legislature assessing the

*effect of the environmental dispatch procedure on emissions and air quality, electric system reliability, and electric prices in the state. These requirements would be repealed January 1, 2004.*

*(2) Existing law requires the Public Utilities Commission to require each electrical corporation to establish new tariffs on or before January 1, 2003, for customers using distributed energy resources.*

*This bill would require the commission, in establishing those tariffs, to consider coincident peakload, and the reliability of the onsite generation, as determined by the frequency and duration of outages, so that customers with more reliable onsite generation and those that reduce peak demand pay a lower cost-based rate.*

*(3) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and other specified entities.*

*This bill would authorize an electrical corporation to recover the reasonable cost of implementing programs, as described, intended to reduce or manage electric demand and energy usage, provide distributed generation, or allow customers to better manage their energy usage through installation of real time metering. The bill would authorize an electrical corporation to recover the costs by charging those costs against amounts collected by the electrical corporation on behalf of the Department of Water Resources for power supplied by the department to the customers of the electrical corporation. The bill would provide that the funding mechanisms established for new programs under these provisions are not subject to any prohibition against electricity post-rate freeze cost recovery.*

~~(1) Existing law defines a standby charge as a charge by an electrical corporation for providing standby generation, transmission, and distribution facilities to a private energy producer employing other than a conventional power source for the generation of electricity.~~

~~This bill would amend the Public Utilities Act to require the Public Utilities Commission to establish an appropriate cost-based rate structure for standby charges for an eligible customer who has installed a microgeneration facility, as defined, or a renewable facility, as defined, or a facility that is powered by stranded California natural gas on or after 90 days from the effective date of the bill, if that facility meets certain requirements. The bill would specify that these provisions do not apply to those eligible customer generators that are not assessed specified standby charges. Because any violation of the act is a crime~~

~~under existing provisions of law, this bill would impose a state-mandated local program by creating a new crime.~~

~~(2) 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~~ *no*.

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

1     ~~SECTION 1. Section 380 is added to the Public Utilities~~  
2     ~~SECTION 1. Section 39925 is added to the Health and Safety~~  
3     ~~Code, to read:~~  
4     ~~39925. (a) On or before August 1, 2001, the state board, in~~  
5     ~~consultation with the Independent System Operator, air quality~~  
6     ~~management districts, air pollution control districts, and the~~  
7     ~~owners and operators of fossil-fueled electrical generation~~  
8     ~~facilities in the state, shall establish standards and regulations to~~  
9     ~~establish an environmental dispatch procedure to minimize~~  
10    ~~nitrogen oxide emissions from generating facilities consistent with~~  
11    ~~maintaining electric system reliability. The environmental~~  
12    ~~dispatch procedure shall apply only to those units that have~~  
13    ~~exhausted the allowable emission credits or hours under a local air~~  
14    ~~district permit. The Independent System Operator may deviate~~  
15    ~~from the environmental dispatch procedure if necessary to~~  
16    ~~preserve the reliability of the transmission grid.~~  
17    ~~(b) On or before August 1, 2003, the state board and the~~  
18    ~~Independent System Operator shall submit a report to the~~  
19    ~~Legislature assessing the effect of the standards and regulations~~  
20    ~~developed pursuant to this section on emissions and air quality,~~  
21    ~~electric system reliability, and electric prices in the state.~~  
22    ~~(c) This section shall remain in effect only until January 1,~~  
23    ~~2004, and as of that date is repealed, unless a later enacted statute,~~  
24    ~~which is enacted before January 1, 2004, deletes or extends that~~  
25    ~~date.~~  
26    ~~SEC. 2. Section 353.13 of the Public Utilities Code is~~  
27    ~~amended to read:~~

1 353.13. (a) The commission shall require each electrical  
2 corporation to establish new tariffs on or before January 1, 2003,  
3 for customers using distributed energy resources, including, but  
4 not limited to, those ~~which~~ *that* do not meet all of the criteria  
5 described in Section 353.1. However, after January 1, 2003,  
6 distributed energy resources that meet all of the criteria described  
7 in Section 353.1 shall continue to be subject only to those tariffs  
8 in existence pursuant to Section 353.3, until June 1, 2011, except  
9 that installations that do not operate in a combined heat and power  
10 application will be subject to those tariffs in existence pursuant to  
11 Section 353.3 only until June 1, 2006. Those tariffs required  
12 pursuant to this section shall ensure that all net distribution costs  
13 incurred to serve each customer class, taking into account the  
14 actual costs and benefits of distributed energy resources,  
15 proportional to each customer class, as determined by the  
16 commission, are fully recovered only from that class. The  
17 commission shall require each electrical corporation, in  
18 establishing those rates, to ensure that customers with similar load  
19 profiles within a customer class will, to the extent practicable, be  
20 subject to the same utility rates, regardless of their use of  
21 distributed energy resources to serve onsite loads or  
22 over-the-fence transactions allowed under Sections 216 and 218.  
23 Customers with dedicated facilities shall remain responsible for  
24 their obligations regarding payment for those facilities.

25 (b) The commission shall prepare and submit to the  
26 Legislature, on or before June 1, 2002, a report describing its  
27 proposed methodology for determining the new rates and the  
28 process by which it will establish those rates.

29 (c) *In establishing the tariffs, the commission shall consider*  
30 *coincident peakload, and the reliability of the onsite generation,*  
31 *as determined by the frequency and duration of outages, so that*  
32 *customers with more reliable onsite generation and those that*  
33 *reduce peak demand pay a lower cost-based rate.*

34 SEC. 3. *Section 743.2 is added to the Public Utilities Code, to*  
35 *read:*

36 743.2. (a) *The Legislature finds and declares that new and*  
37 *existing programs intended to reduce or manage electric demand*  
38 *and energy usage, provide distributed generation, or allow*  
39 *customers to better manage their energy usage through*  
40 *installation of real time metering, are preferable to the apparent*

1 *alternative of increasingly frequent and severe rotating outages*  
 2 *and their consequent effect on the state's economy, whether these*  
 3 *programs are required by the Legislature, the commission, or the*  
 4 *Independent System Operator.*

5 *(b) An electrical corporation shall be permitted to recover*  
 6 *concurrently the reasonable costs of implementing the programs,*  
 7 *including customer incentive, marketing, administration, and*  
 8 *infrastructure costs for new programs and current programs, to the*  
 9 *extent funding for current programs is not already embedded in*  
 10 *rates or otherwise provided. An electrical corporation may charge*  
 11 *these costs against amounts collected by the electrical corporation*  
 12 *on behalf of the Department of Water Resources for power supplied*  
 13 *by that department to the customers of the electrical corporation*  
 14 *pursuant to Division 27 (commencing with Section 80000) of the*  
 15 *Water Code.*

16 *(c) Notwithstanding any law to the contrary, the funding*  
 17 *mechanisms established for new programs under this section may*  
 18 *not be subject to any prohibition against electricity post-rate freeze*  
 19 *cost recovery.*

20 ~~Code, to read:~~

21 ~~380. (a) To recognize the potential for microgeneration and~~  
 22 ~~renewable facilities to enhance reliability, power quality, and to~~  
 23 ~~provide other demonstrable benefits to the electric transmission or~~  
 24 ~~distribution system, the commission shall establish an appropriate~~  
 25 ~~cost-based rate structure for standby charges for eligible~~  
 26 ~~customers.~~

27 ~~(b) Any true-up of rates, which might be required as a result of~~  
 28 ~~restructuring standby charges, may only be imposed on the~~  
 29 ~~specific customer class which received an adjustment in standby~~  
 30 ~~charges.~~

31 ~~(c) As used in this section, the following terms have the~~  
 32 ~~following meanings:~~

33 ~~(1) "Eligible customer" means a customer who has installed a~~  
 34 ~~microgeneration facility as defined in subdivision (f) of Section~~  
 35 ~~331, or a renewable facility or a facility that is powered by stranded~~  
 36 ~~California natural gas, but does not include any facility that is~~  
 37 ~~powered by diesel fuel, on or after 90 days from the effective date~~  
 38 ~~of the act adding this section, if that facility meets all of the~~  
 39 ~~following requirements:~~

1 ~~(A) Is operated in parallel with the electrical corporation's~~  
2 ~~transmission and distribution system.~~

3 ~~(B) Is subject to the electrical corporation's standby tariff.~~

4 ~~(C) Is in full compliance with the best available control~~  
5 ~~technology (BACT).~~

6 ~~(2) "Renewable facility" means a facility of less than one~~  
7 ~~megawatt that does not meet the definition of a conventional~~  
8 ~~power source, as defined in Section 2805.~~

9 ~~(d) This section does not apply to those eligible~~  
10 ~~customer-generators that are not assessed standby charges~~  
11 ~~pursuant to subdivision (d) of Section 2827.~~

12 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
13 ~~Section 6 of Article XIII B of the California Constitution because~~  
14 ~~the only costs that may be incurred by a local agency or school~~  
15 ~~district will be incurred because this act creates a new crime or~~  
16 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
17 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
18 ~~the Government Code, or changes the definition of a crime within~~  
19 ~~the meaning of Section 6 of Article XIII B of the California~~  
20 ~~Constitution.~~