

AMENDED IN ASSEMBLY APRIL 23, 2002

AMENDED IN ASSEMBLY APRIL 11, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2228**

---

---

**Introduced by Assembly Member Negrete McLeod**

February 20, 2002

---

---

An act to add and repeal Section 2827.9 of the Public Utilities Code, relating to public utilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2228, as amended, Negrete McLeod. Public utilities: net energy metering.

Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Until January 1, 2003, an “eligible customer-generator” means a residential, small commercial, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer’s owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer’s own electrical requirements. After January 1, 2003, an “eligible customer-generator” means a residential or small commercial customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than 10 kilowatts that is located on the customer’s

premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

This bill would, until January 1, 2006, also require electric service providers, as defined *to mean electrical corporations*, to provide eligible customer-generators, as defined, with net energy metering *under a pilot program*. The bill would define an "eligible customer-generator" as a small commercial, commercial, industrial, or agricultural customer of an electric service provider, who uses a biogas electrical generating facility with a capacity of not more than one megawatt and receives at least part of its funding from government sources. *The bill would define an "eligible biogas digester customer-generator" as a customer who is the recipient of local, state, or federal funds, or who self-finances pilot projects designed to encourage the development of biogas digestion power production technologies, and would prescribe the conditions under which these customers may participate in the pilot program established by the bill.* The bill would provide that an electric service provider is not obligated to provide net energy metering to additional customer-generators in its service territory when the combined total biogas generation in its service territory equals 10 megawatts.

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

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

- 1 SECTION 1. Section 2827.9 is added to the Public Utilities
- 2 Code, to read:
- 3 2827.9. (a) (1) The Legislature finds and declares that a pilot
- 4 program to provide net energy metering for eligible dairy biogas
- 5 generation projects would enhance the continued diversification
- 6 of California's energy resource mix and would encourage the
- 7 installation of livestock air emission controls that the State Air
- 8 Resources Board believes may produce multimedia
- 9 environmental benefits.
- 10 (2) *It is, therefore, the intent of the Legislature in enacting the*
- 11 *act adding this section to accomplish both of the following:*
- 12 (A) *To enact a program in furtherance of Chapter 7 of the*
- 13 *Statutes of the 2001–02 First Extraordinary Session.*



1 (B) To ensure the immediate implementation of energy  
2 efficiency programs in order to reduce the consumption of energy  
3 and to assist in reducing costs by reducing peak energy demand.

4 (b) As used in this section, the following definitions apply:

5 (1) “Electric service provider” means an electrical  
6 corporation, as defined in Section 218, ~~a local publicly owned~~  
7 ~~electric utility, as defined in Section 9604, or an electrical~~  
8 ~~cooperative, as defined in Section 2776, or any other entity that~~  
9 ~~offers electrical service.~~

10 (2) (A) “Eligible biogas digester customer-generator” means  
11 a customer who is the recipient of local, state, or federal funds, or  
12 who self-finances pilot projects designed to encourage the  
13 development of biogas digestion power production technologies,  
14 and who has developed either a dairy manure methane power  
15 production project or has reduced peak usage by revision of system  
16 operations to produce replacement energy as a byproduct or  
17 anaerobic digestion of biosolids and animal wastes. An eligible  
18 biogas digester customer-generator shall be assigned a  
19 time-of-use meter.

20 (B) At the end of each monthly period, when the electricity  
21 supplied during the period by the electric service provider exceeds  
22 the electricity generated by the eligible biogas digester  
23 customer-generator during that same period, the eligible biogas  
24 digester customer-generator is a net electricity consumer and the  
25 electric service provider is owed compensation for the net  
26 kilowatthour consumption of the eligible biogas digester  
27 customer-generator over that same period. The compensation  
28 owed for the consumption of the eligible biogas digester  
29 customer-generator shall be calculated in accordance with both of  
30 the following:

31 (i) The generator charges for any net monthly consumption of  
32 electricity shall be calculated according to the terms of the  
33 time-of-use tariff to which the same customer would be assigned.  
34 When those eligible biogas digester customer-generators are net  
35 generators during any discrete time-of-use period, the net  
36 kilowatthours produced shall be valued at the same generation  
37 price per kilowatthour as the electric service provider would  
38 charge for retail kilowatthour sales during that same time-of-use  
39 period.

1 (ii) *All charges other than the generation charges described in*  
2 *clause (i) shall be calculated in accordance with the applicable*  
3 *tariff of the eligible biogas digester customer-generator, based on*  
4 *the total monthly consumption of electricity by the eligible biogas*  
5 *digester customer-generator.*

6 (C) *A project shall be sized to offset part or all of the electrical*  
7 *requirements of the eligible biogas digester customer-generators,*  
8 *but in no event shall the project specific load exceed one megawatt.*

9 (3) “Eligible customer-generator” means a small commercial  
10 customer, as defined in subdivision (h) of Section 331,  
11 commercial, industrial, or agricultural customer of an electric  
12 service provider, who uses a biogas electrical generating facility  
13 with a capacity of not more than one megawatt that is located on  
14 the customer’s owned, leased, or rented premises, is  
15 interconnected and operates in parallel with the electric grid, and  
16 is intended primarily to offset part or all of the customer’s own  
17 electrical requirements. An “eligible customer-generator” shall  
18 receive part or all of its funding from state or federal government  
19 sources.

20 ~~(3)~~

21 (4) “Net energy metering” means measuring the difference  
22 between the electricity supplied through the electric grid and the  
23 difference between the electricity generated by an eligible  
24 customer-generator and fed back to the electric grid over a  
25 12-month period as described in subdivision (e). Net energy  
26 metering shall be accomplished using a single meter capable of  
27 registering the flow of electricity in two directions. An additional  
28 meter or meters to monitor the flow of electricity in each direction  
29 may be installed with the consent of the eligible  
30 customer-generator, at the expense of the electric service provider,  
31 and the additional metering shall be used only to provide the  
32 information necessary to accurately bill or credit the eligible  
33 customer-generator pursuant to subdivision (e), or to collect  
34 biogas electric generating system performance information for  
35 research purposes. If the existing electrical meter of an eligible  
36 customer-generator is not capable of measuring the flow of  
37 electricity in two directions, the eligible customer-generator shall  
38 be responsible for all expenses involved in purchasing and  
39 installing a meter that is able to measure electricity flow in two  
40 directions. If an additional meter or meters are installed, the net

1 energy metering calculation shall yield a result identical to that of  
2 a single meter.

3 (c) (1) Every electric service provider shall develop a standard  
4 contract or tariff providing for net energy metering, and shall make  
5 this contract available to eligible customer-generators, upon  
6 request.

7 (2) If a customer participates in direct transactions pursuant to  
8 paragraph (1) of subdivision (b) of Section 365 with an electric  
9 supplier that does not provide distribution service for the direct  
10 transactions, the service provider that provides distribution service  
11 for an eligible customer-generator is not obligated to provide net  
12 energy metering to the customer.

13 (3) If a customer participates in direct transactions pursuant to  
14 paragraph (1) of subdivision (b) of Section 365 with an electric  
15 supplier, and the customer is an eligible customer-generator, the  
16 service provider that provides distribution service for the direct  
17 transactions may recover from the customer's electric service  
18 provider the incremental costs of metering and billing service  
19 related to net energy metering in an amount set by the commission.

20 (d) Each net energy metering contract or tariff shall be  
21 identical, with respect to rate structure, all retail rate components,  
22 and any monthly charges, to the contract or tariff to which the same  
23 customer would be assigned if the customer was not an eligible  
24 customer-generator, except that eligible customer-generators shall  
25 not be assessed standby charges on the electrical generating  
26 capacity or the kilowatthour production of a biogas electrical  
27 generating facility. The charges for all retail rate components for  
28 eligible customer-generators shall be based exclusively on the  
29 customer-generator's net kilowatthour consumption over a  
30 12-month period, without regard to the customer-generator's  
31 choice of electric service provider. Any new or additional demand  
32 charge, standby charge, customer charge, minimum monthly  
33 charge, interconnection charge, or other charge that would  
34 increase an eligible customer-generator's costs beyond those of  
35 other customers in the rate class to which the eligible  
36 customer-generator would otherwise be assigned are contrary to  
37 the intent of this legislation, and shall not form a part of net energy  
38 metering contracts or tariffs.

39 (e) The net energy metering calculation shall be made by  
40 measuring the difference between the electricity supplied to the

1 eligible customer-generator and the electricity generated by the  
2 eligible customer-generator and fed back to the electric grid over  
3 a 12-month period. The following rules shall apply to the  
4 annualized net metering calculation:

5 (1) The eligible customer-generator shall, at the end of each  
6 12-month period following the date of final interconnection of the  
7 eligible customer-generator's system with an electric service  
8 provider, and at each anniversary date thereafter, be billed for  
9 electricity used during that period. The electric service provider  
10 shall determine if the eligible customer-generator was a net  
11 consumer or a net producer of electricity during that period.

12 (2) At the end of each 12-month period, where the electricity  
13 supplied during the period by the electric service provider exceeds  
14 the electricity generated by the eligible customer-generator during  
15 that same period, the eligible customer-generator is a net  
16 electricity consumer and the electric service provider shall be  
17 owed compensation for the eligible customer-generator's net  
18 kilowatthour consumption over that same period. The  
19 compensation owed for the eligible customer-generator's  
20 consumption shall be calculated as follows:

21 (A) For eligible customer-generators taking service under  
22 tariffs employing "baseline" and "over baseline" rates, any net  
23 monthly consumption of electricity shall be calculated according  
24 to the terms of the contract or tariff to which the same customer  
25 would be assigned to or be eligible for if the customer was not an  
26 eligible customer-generator. If those eligible customer-generators  
27 are net generators over a billing period the net kilowatthours  
28 generated will be valued at the same price per kilowatthour as the  
29 electric service provider would charge for the baseline quantity of  
30 electricity during that billing period, and if the number of  
31 kilowatthours generated exceeds baseline quantity, the excess  
32 shall be valued at the same price per kilowatthour as the electric  
33 service provider would charge for electricity over the baseline  
34 quantity during that billing period.

35 (B) For eligible customer-generators taking service under  
36 tariffs employing "time of use" rates, any net monthly  
37 consumption of electricity shall be calculated according to the  
38 terms of the contract or tariff to which the same customer would  
39 be assigned to or be eligible for if the customer was not an eligible  
40 customer-generator. When those eligible customer-generators are

net generators during any discrete time of use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) The net balance of moneys owed shall be paid in accordance with the electric service providers normal billing cycle, except that if the eligible customer-generator is a net electricity producer over a normal billing cycle, any excess kilowatthours generated during the billing cycle shall be carried over to the following billing period, valued according to the procedures set forth in this section, and appear as a credit on the eligible customer-generator's account until the end of the annual period when paragraph (3) shall apply.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior ~~12-month~~ 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.

(4) The electric service provider shall provide every eligible customer-generator with net electricity consumption information with each regular bill. That information shall include the current monetary balance owed the electric service provider for net electricity consumed since the last 12-month period ended. Notwithstanding subdivision (e), an electric service provider shall permit that customer to pay monthly for net energy consumed.

(5) If an eligible customer-generator terminates the customer relationship with the electric service provider, the electric service provider shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation according to the requirements set forth in this subdivision, except that those



1 requirements shall apply only to the months since the most recent  
2 12-month bill.

3 (6) If an electric service provider providing net metering to an  
4 eligible customer-generator ceases providing that electrical  
5 service to that customer during any 12-month period, and the  
6 eligible customer-generator enters into a new net metering  
7 contract or tariff with a new electric service provider, the 12-month  
8 period, with respect to that new electric service provider, shall  
9 commence on the date on which the new electric service provider  
10 first supplies electric service to the customer-generator.

11 (7) Notwithstanding paragraph (1) of subdivision (c), an  
12 electric service provider is not obligated to provide net energy  
13 metering to additional eligible customer-generators in its service  
14 territory when the combined total biogas generation provided by  
15 eligible customer-generators in its service territory equals 10  
16 megawatts.

17 (f) *The cumulative load in the service territories of all*  
18 *electrical corporations participating in the pilot project*  
19 *established by this section shall not exceed 15 megawatts, and the*  
20 *load for which the netting of the generation charges of eligible*  
21 *biogas digester customer-generators shall not exceed 5 megawatts*  
22 *within the service territory of each electrical corporation.*

23 (g) This section shall remain in effect only until January 1,  
24 2006, and as of that date is repealed, unless a later enacted statute,  
25 that is enacted before January 1, 2006, deletes or extends that date.

