

AMENDED IN SENATE JUNE 15, 2004
AMENDED IN SENATE MARCH 3, 2004
AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 594

Introduced by Assembly Member Leno

February 18, 2003

An act to add Section ~~2828~~ 2851 to the Public Utilities Code, relating to solar energy systems, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as amended, Leno. Solar energy systems: Hetch Hetchy Water and Power solar generation.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities and is required to establish requirements for the administration of power purchase contracts between electrical corporations and private energy producers. Existing law authorizes the City of Davis to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a photovoltaic facility located within and partially owned by the city and requires the commission to adopt a rate tariff for the benefiting account.

This bill would authorize the City and County of San Francisco to elect to designate specific photovoltaic 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 would be required on a monthly basis, to ~~pay credit~~ the City and County of San Francisco for the electricity generated and delivered to the electric grid ~~at the established time of use rate in accordance with specified rate criteria. The bill would provide for the termination of this arrangement upon notice from the city and county or upon the city and county, as a community choice aggregator, assumes responsibility for serving any load beyond its municipal load.~~

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 the bill would be a part of the act and would require an order or other action of the commission to implement those provisions, the bill would impose a state-mandated local program by creating a new crime.

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.

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 bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 ~~SECTION 1. The Legislature finds and declares each of the~~
- 2 ~~following:~~
- 3 ~~(a) Increasing California's use of solar generated electricity~~
- 4 ~~promotes stable electricity prices, protects public health, improves~~
- 5 ~~environmental quality, stimulates sustainable economic~~
- 6 ~~development, creates new employment opportunities, and reduces~~
- 7 ~~reliance on fossil fuels.~~

~~(b) Electricity for municipal facilities of the City and County of San Francisco is provided by Hetch Hetchy Water and Power through electric transmission and distribution lines owned by Pacific Gas and Electric Company. This situation is unique to the City and County of San Francisco. Because of this situation solar electric generation on municipal facilities are prevented from exporting electricity to the grid. For all other cities and counties that have electricity distributed by Pacific Gas and Electric Company, solar electric facilities on municipal facilities are permitted to export electricity to the grid under net metering.~~

~~(c) San Francisco is among the most vulnerable areas of California for electricity blackouts because of transmission constraints that prevent electricity from coming into the city and aging powerplants located in the city. Development of solar electric facilities in San Francisco can improve electric service reliability and contribute to the retirement of the aging fossil fuel generating facilities.~~

~~(d) Payments for the electricity produced from Hetch Hetchy Water and Power solar generation facilities are in the public interest in order to value the production of a unique, wholly renewable resource for electricity generation located in, and owned by, the City and County of San Francisco.~~

~~SEC. 2. Section 2828 is added to Chapter 9 of Part 1 of Division 1 of the Public Utilities Code, to read:~~

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

~~(1) “Environmental attributes” associated with the Hetch Hetchy Water and Power (HHWP) 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 emission 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.~~

~~(2) “HHWP 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, not to exceed five megawatts of peak generation capacity in total.~~

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

~~(1) No single photovoltaic generation project exceeds one megawatt of peak generation capacity.~~

~~(2) The electricity generated by the photovoltaic facility is metered for time of use.~~

~~(3) All costs associated with equipping the facility with time of use metering pursuant to paragraph (2) are the responsibility of the City and County of San Francisco.~~

~~(4) All electricity delivered to the electric grid by the HHWP solar generation is the property of Pacific Gas and Electric Company.~~

~~(5) The City and County of San Francisco does not sell electricity delivered to the electric grid from HHWP solar generation to a third party.~~

~~(6) The right, title, and interest in the environmental attributes associated with the electricity delivered to the electric grid by the HHWP solar generation are the property of the City and County of San Francisco.~~

~~(c) Pacific Gas and Electric Company shall pay the City and County of San Francisco, on a monthly basis, an amount equal to the applicable time of use rate for the electricity generated by the HHWP solar generation that is delivered to the electric grid.~~

~~(d) 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 generation facilities that will comprise HHWP solar generation, proposing a rate for the purchase of the electricity generated by the HHWP solar generation. The commission, within 30 days of the date of filing of the advice letter, shall approve the proposed rate or specify conforming changes to be made by Pacific Gas and Electric Company to be filed in a new advice letter within 30 days.~~

~~(e) The City and County of San Francisco may terminate its election pursuant to subdivision (b), upon providing Pacific Gas and Electric Company with a minimum of 60 days' notice.~~

~~(f) Pacific Gas and Electric Company and the City and County of San Francisco shall, no later than January 1, 2010, report to the~~

~~commission on the costs and benefits to Pacific Gas and Electric Company ratepayers of the installed HHWP solar generation.~~

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

(a) *Increasing California's use of solar generated electricity can promote stable electricity prices, protects public health, improves environmental quality, create new employment opportunities, and reduces reliance on fossil fuels.*

(b) *Electricity for municipal facilities of the City and County of San Francisco is provided by Hetch Hetchy Water and Power through electric transmission and distribution lines owned by Pacific Gas and Electric Company. This situation is unique to the City and County of San Francisco.*

(c) *The City and County of San Francisco has declared its intention to become a Community Choice Aggregator, but until the time that the City and County of San Francisco begins to procure power for nonmunicipal load, the City and County of San Francisco has no available mechanism to market the temporarily existing excess generation of proposed photovoltaic projects to be located at San Francisco municipal sites and which may on occasion exceed the load at the site.*

(d) *San Francisco is among the most vulnerable areas of California for electricity blackouts because of transmission constraints that prevent electricity from coming into the city and county and aging powerplants located in the city and county. Development of solar electric facilities in San Francisco can improve electric service reliability and contribute to the retirement of the aging fossil fuel generating facilities.*

(e) *Compensation for the electricity produced from Hetch Hetchy Water and Power solar generation facilities are in the public interest.*

SEC. 2. *Section 2851 is added to Chapter 9 of Part 1 of Division 1 of the Public Utilities Code, to read:*

2851. (a) *As used in this section, the following terms have the following meanings:*

(1) *"Environmental attributes" associated with the Hetch Hetchy Water and Power (HHWP) 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*

1 avoidance of the emission of any gas, chemical, or other substance
2 attributable to the HHWP photovoltaic electricity generation
3 facility owned by the City and County of San Francisco.

4 (2) “HHWP solar generation” means the electricity generated
5 by HHWP photovoltaic electricity generation facilities owned by
6 the City and County of San Francisco, designated by the City and
7 County of San Francisco pursuant to subdivision (b) and not to
8 exceed five megawatts of peak generation capacity in total.

9 (3) “Interconnection Agreement” means the 1987 agreement
10 between Pacific Gas and Electric Company and the City and
11 County of San Francisco, as filed with and accepted by the Federal
12 Energy Regulatory Commission (FERC), and as amended from
13 time to time with FERC approval which provides for rates for
14 transmission, distribution and sales of supplemental power to the
15 City and County of San Francisco. Nothing in this section shall
16 waive or modify the rights of parties under the Interconnection
17 Agreement or the jurisdiction of the FERC over rates set forth in
18 the Interconnection Agreement.

19 (4) “Appropriate time-of-use tariff” means the time-of-use
20 tariff to which the City and County of San Francisco account at the
21 photovoltaic project site would be subject if the facility at the site
22 were a Pacific Gas and Electric Company bundled customer.

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

26 (1) No single photovoltaic generation project exceeds one
27 megawatt of peak generation capacity.

28 (2) The photovoltaic project utilizes a meter, or multiple
29 meters, capable of separately measuring electricity flow in both
30 directions. All meters shall provide “time-of-use” measurement
31 information. If the existing meter at the site of the photovoltaic
32 project is not capable of providing time-of-use information or is
33 not capable of measuring total flow of energy in both directions,
34 the City and County of San Francisco is responsible for all
35 expenses involved in purchasing and installing a meter or meters
36 that are both capable of providing time-of-use information and
37 able to measure total electricity flow in both directions.

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

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

4 (5) *Ownership and use of environmental attributes associated*
5 *with the electricity delivered to the electric grid by HHWP solar*
6 *generation shall be determined by the commission in accordance*
7 *with Article 16 (commencing with Section 399.11) of Chapter 2.3*
8 *of Part 1.*

9 (c) *For each site of a photovoltaic project that comprises the*
10 *HHWP solar generation, Pacific Gas and Electric Company shall*
11 *identify the appropriate time-of-use tariff for that site. Any*
12 *electricity exported to the Pacific Gas and Electric Company grid*
13 *at that site shall, for each time-of-use period, result in a monetary*
14 *credit to be listed monthly on the invoice created pursuant to the*
15 *Interconnection Agreement and shall be valued at the generation*
16 *component of the appropriate time-of-use tariff plus an an*
17 *additional component to be determined by the California Public*
18 *Utilities Commission to reflect the locational value and the value*
19 *of the environmental attributes of the designated HHWP solar*
20 *generation.*

21 (d) *Notwithstanding any other provision of this section, if the*
22 *City and County of San Francisco assumes responsibility as a*
23 *community choice aggregator for serving any load beyond the*
24 *municipal load of the City and County of San Francisco, all other*
25 *provisions of this section become inoperative.*

26 (e) *Pursuant to this section, the offset to charges under the*
27 *Interconnection Agreement is the medium to convey credits earned*
28 *under this section. Nothing in this section shall be construed to*
29 *affect in any way the rights and obligations of the City and County*
30 *of San Francisco and Pacific Gas and Electric Company under the*
31 *Interconnection Agreement.*

32 (f) *Pacific Gas and Electric Company shall file an advice letter*
33 *with the commission, that complies with this section, not later than*
34 *10 days after the City and County of San Francisco first designates*
35 *the specific generation facilities that will comprise HHWP solar*
36 *generation. The commission, within 30 days of the date of filing of*
37 *the advice letter, shall approve the advice letter or specify*
38 *conforming changes to be made by Pacific Gas and Electric*
39 *Company to be filed in an amended advice letter within 30 days.*

1 (g) *The City and County of San Francisco may terminate its*
2 *election pursuant to subdivision (b) upon providing Pacific Gas*
3 *and Electric Company with a minimum of 60 days' written notice.*

4 SEC. 3. The Legislature finds and declares that, because of the
5 unique circumstances applicable only to Hetch Hetchy Water and
6 Power solar generation of electricity, a statute of general
7 applicability cannot be enacted within the meaning of subdivision
8 (b) of Section 16 of Article IV of the California Constitution.
9 Therefore, this special statute is necessary.

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

19 SEC. 5. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety
21 within the meaning of Article IV of the Constitution and shall go
22 into immediate effect. The facts constituting the necessity are:

23 The San Francisco Public Utilities Commission (SFPUC) has
24 several opportunities to develop large-scale solar generation
25 facilities in San Francisco in the near future if the issue of
26 exporting some of the electricity to the Pacific Gas and Electric
27 Company grid can be resolved. These sites include the covered
28 University Mound Reservoir, which could accommodate a
29 one-megawatt project, and the new Moscone West Convention
30 Center, which could also support a one-megawatt project. Because
31 the City of San Francisco is not currently eligible for net metering
32 at these sites, it is difficult to begin planning for project
33 development at these sites. Development of a large-scale solar
34 generation facility at either site would be one of the premier solar
35 electricity generation installations in the United States, providing
36 impetus for additional solar energy development in California. It
37 is necessary that this act take effect immediately to enable SFPUC
38 to prepare bid documents and to select a project developer on an

- 1 expedited basis in order to obtain the environmental and public
- 2 health advantages that these projects achieve.

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