

AMENDED IN SENATE JULY 21, 2004

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 ~~2851~~ 2828 to the Public Utilities Code, relating to solar energy systems, and declaring the urgency thereof, to take effect immediately, to private energy producers.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as amended, Leno. ~~Solar energy systems~~ Private energy producers: 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 permits a private energy producer to generate electricity not generated from conventional sources, as defined, solely for its own use or the use of its tenants, or generating electricity to or for any electrical corporation, state agency, city, county, district, or an association thereof, but not the public, without becoming a public utility subject to the general jurisdiction of the commission. Existing law requires the commission to review the charges paid by electrical corporations to

private energy producers for electricity generated by other than conventional power sources and to review standby and transmission charges imposed by electrical corporations upon the private energy producers. The commission is further required, after the review, to adjust those charges to encourage the generation of electricity from other than conventional power sources. 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 credit the City and County of San Francisco for ~~the certain~~ electricity generated and delivered to the electric grid 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 engaging in retail sales to customers within the service territory of Pacific Gas and Electric Company, as a result of becoming a community choice aggregator, as a result of municipalization, or otherwise.~~

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

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 can
4 promote stable electricity prices, ~~protects~~ *protect* public health,
5 ~~improves~~ *improve* environmental quality, create new employment
6 opportunities, and ~~reduces~~ *reduce* reliance on fossil fuels.

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

12 (c) The City and County of San Francisco has declared its
13 intention to become a ~~Community Choice Aggregator, but until~~
14 ~~the time that community choice aggregator, but until~~ the City and
15 County of San Francisco begins to procure ~~power for~~
16 ~~nonmunicipal load electricity pursuant to implementation of~~
17 *community choice aggregation*, the City and County of San
18 Francisco has no ~~available~~ *acceptable* mechanism to market the
19 temporarily existing excess generation of proposed photovoltaic
20 projects to be located at San Francisco municipal sites and which
21 may on occasion exceed the load at the site.

22 (d) San Francisco is ~~among the most vulnerable areas of~~
23 ~~California for electricity blackouts because of transmission~~
24 ~~constraints that prevent electricity from coming into the city and~~
25 ~~county and aging powerplants located in the city and county.~~
26 *located in a transmission constrained area that currently requires*
27 *local generation.* Development of solar electric facilities in San
28 Francisco can improve electric service reliability and ~~contribute to~~
29 ~~the retirement of the aging fossil fuel generating facilities. lessen~~
30 *air pollution from fossil fuel powerplants located in the city and*
31 *county.*

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

4 SEC. 2. ~~Section 2851 is added to Chapter 9 of Part 1 of~~
5 ~~Division 1 of 2828 is added to the Public Utilities Code, to read:~~

6 2851. (a) As used in this section, the following terms have the
7 following meanings:

8 (1) “Environmental attributes” associated with the Hetch
9 Hetchy Water and Power (HHWP) solar generation include, but
10 are not limited to, the credits, benefits, emissions reductions,
11 environmental air quality credits, and emissions reduction credits,
12 offsets, and allowances, however entitled, resulting from the
13 avoidance of the emission of any gas, chemical, or other substance
14 attributable to the HHWP Hetch Hetchy Water and Power
15 photovoltaic electricity generation facility owned by the City and
16 County of San Francisco.

17 (2) “HHWP solar generation” means the electricity generated
18 by HHWP Hetch Hetchy Water and Power photovoltaic electricity
19 generation facilities owned by the City and County of San
20 Francisco, designated by the City and County of San Francisco
21 pursuant to subdivision (b) and not to exceed five megawatts of
22 peak generation capacity in total.

23 (3) “Interconnection Agreement” means the 1987 agreement
24 between Pacific Gas and Electric Company and the City and
25 County of San Francisco, as filed with and accepted by the Federal
26 Energy Regulatory Commission (FERC), and as amended from
27 time to time with FERC approval, which provides for rates for
28 transmission, distribution and sales of supplemental power, and
29 sales of supplemental electricity to the City and County of San
30 Francisco. Nothing in this section shall waive or modify the rights
31 of parties under the Interconnection Agreement or the jurisdiction
32 of the FERC over rates set forth in the Interconnection Agreement.

33 (4) ~~“Appropriate time-of-use tariff” means the time-of-use~~
34 ~~tariff to which TOU tariff” means the Time-of-Use tariff that~~
35 ~~would be applicable to the City and County of San Francisco~~
36 ~~account at the photovoltaic project site would be subject if the~~
37 ~~facility at the site were a Pacific Gas and Electric Company~~
38 ~~bundled customer, as determined by Pacific Gas and Electric~~
39 ~~Company.~~



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

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

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

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

(c) For each site of a photovoltaic project that comprises the HHWP solar generation, Pacific Gas and Electric Company shall identify the appropriate ~~time-of-use~~ TOU tariff for that site. Any electricity exported to the Pacific Gas and Electric Company grid at that site shall, for each time-of-use period, result in a monetary credit to be ~~listed monthly on~~ *applied monthly as a credit or offset against* the invoice created pursuant to the Interconnection Agreement and shall be valued at the generation component of the appropriate ~~time-of-use tariff plus an additional component to be determined by the California Public Utilities Commission to reflect the locational value and the value of TOU tariff. The commission shall determine if it is appropriate to increase the credit to reflect any additional value derived from the location or~~

1 the environmental attributes of, the designated HHWP solar
2 generation.

3 (d) *Monthly charges and credit amounts are interim and*
4 *subject to an accounting true-up, consistent with commission*
5 *policies and practices. The true-up shall be performed annually or*
6 *upon the termination, for any reason, of the Interconnection*
7 *Agreement. The true-up shall accomplish the following:*

8 (1) *If the total electricity delivered to the site by Pacific Gas and*
9 *Electric Company since the previous true-up equals or exceeds the*
10 *total electricity exported to the grid by the Hetch Hetchy*
11 *photovoltaic electricity generation facility at the site, the City and*
12 *County of San Francisco is a net electricity consumer at that site.*
13 *For any site where the City and County of San Francisco is a net*
14 *electricity consumer, a credit or offset shall be applied to reduce*
15 *the obligations of the City and County of San Francisco to an*
16 *invoice prepared pursuant to the Interconnection Agreement. If*
17 *there is no invoiced obligation to be reduced, there is no applicable*
18 *credit.*

19 (2) *If the total electricity delivered to the site by Pacific Gas and*
20 *Electric Company since the previous true-up is less than the total*
21 *electricity exported to the grid by the Hetch Hetchy photovoltaic*
22 *electricity generation facility at the site, the City and County of San*
23 *Francisco is a net electricity producer at that site. For any site*
24 *where the City and County of San Francisco is a net electricity*
25 *producer, the City and County of San Francisco shall receive no*
26 *credit or offset for the electricity exported to the grid in excess of*
27 *the electricity delivered to the site from the grid. For any site where*
28 *the City and County of San Francisco is a net electricity producer,*
29 *the City and County of San Francisco shall receive a credit or*
30 *offset up to the amount of electricity delivered to the site from the*
31 *grid. The credit or offset shall be applied to reduce the obligations*
32 *of the City and County of San Francisco to an invoice prepared*
33 *pursuant to the Interconnection Agreement. If there is no invoiced*
34 *obligation to be reduced, there is no applicable credit or offset.*
35 *Pacific Gas and Electric Company shall use the last-in, first-out*
36 *method to determine what electricity delivered to the grid from the*
37 *site will not earn a credit or offset.*

38 (e) *Notwithstanding any other provision of this section, if the*
39 *City and County of San Francisco assumes responsibility as a*
40 *community choice aggregator for serving any load beyond the*



1 ~~municipal load of the City and County of San Francisco engages~~
2 ~~in retail sales to customers within the service territory of Pacific~~
3 ~~Gas and Electric Company, as a result of becoming a community~~
4 ~~choice aggregator, as a result of municipalization, or otherwise, all~~
5 other provisions of this section become inoperative.

6 ~~(e)–~~

7 (f) Pursuant to this section, the offset to charges under the
8 Interconnection Agreement is the medium to convey credits
9 earned under this section. Nothing in this section shall be
10 construed to affect in any way the rights and obligations of the City
11 and County of San Francisco and Pacific Gas and Electric
12 Company under the Interconnection Agreement.

13 ~~(f)–~~

14 (g) Pacific Gas and Electric Company shall file an advice letter
15 with the commission, that complies with this section, not later than
16 10 days after the City and County of San Francisco first designates
17 the specific generation facilities that will comprise HHWP solar
18 generation. The commission, within 30 days of the date of filing
19 of the advice letter, shall approve the advice letter or specify
20 conforming changes to be made by Pacific Gas and Electric
21 Company to be filed in an amended advice letter within 30 days.

22 ~~(g)–~~

23 (h) The City and County of San Francisco may terminate its
24 election pursuant to ~~subdivision (b)~~ subdivisions (b), (c), and (d),
25 upon providing Pacific Gas and Electric Company with a
26 minimum of 60 days' written notice.

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

33 SEC. 4. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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

7 ~~The San Francisco Public Utilities Commission (SFPUC) has~~
8 ~~several opportunities to develop large-scale solar generation~~
9 ~~facilities in San Francisco in the near future if the issue of~~
10 ~~exporting some of the electricity to the Pacific Gas and Electric~~
11 ~~Company grid can be resolved. These sites include the covered~~
12 ~~University Mound Reservoir, which could accommodate a~~
13 ~~one-megawatt project, and the new Moscone West Convention~~
14 ~~Center, which could also support a one-megawatt project. Because~~
15 ~~the City of San Francisco is not currently eligible for net metering~~
16 ~~at these sites, it is difficult to begin planning for project~~
17 ~~development at these sites. Development of a large-scale solar~~
18 ~~generation facility at either site would be one of the premier solar~~
19 ~~electricity generation installations in the United States, providing~~
20 ~~impetus for additional solar energy development in California. It~~
21 ~~is necessary that this act take effect immediately to enable SFPUC~~
22 ~~to prepare bid documents and to select a project developer on an~~
23 ~~expedited basis in order to obtain the environmental and public~~
24 ~~health advantages that these projects achieve.~~

