

AMENDED IN SENATE SEPTEMBER 6, 2005

AMENDED IN SENATE SEPTEMBER 2, 2005

AMENDED IN SENATE AUGUST 24, 2005

AMENDED IN SENATE AUGUST 16, 2005

AMENDED IN SENATE JUNE 28, 2005

AMENDED IN ASSEMBLY MAY 2, 2005

AMENDED IN ASSEMBLY APRIL 26, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Nunez

February 11, 2005

An act to add Sections 380 and 9620 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 380, as amended, Nunez. Electricity: electrical restructuring: resource adequacy.

(1) The California Constitution establishes the Public Utilities Commission, and provides it with jurisdiction over all public utilities. The Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities.

The existing Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity 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. Existing law relative to electrical restructuring, authorizes electrical service to be provided, in certain circumstances, by electric service providers, as defined, and community choice aggregators, as defined.

This bill would require the commission, in consultation with the Independent System Operator (ISO), to establish resource adequacy requirements for all load-serving entities, as defined, in accordance with specified objectives. The bill would require each load-serving entity to maintain physical generating capacity adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service. The bill would require each load-serving entity to meet, at a minimum, the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the Western Systems Coordinating Council or the Western Electricity Coordinating Council. The bill would require the commission to implement and enforce the resource adequacy requirements established pursuant to the bill in a nondiscriminatory manner. The bill would subject each load-serving entity to the same requirements for resource adequacy and the renewables portfolio standard program that are applicable to electrical corporations, or otherwise required by law, or by order or decision of the commission. The bill would require that the costs of an electrical corporation in meeting resource adequacy requirements, as specified, be fully recoverable from those customers taking service from the electrical corporation, at the time the commitment to incur the cost is made or thereafter, on a fully nonbypassable basis, as determined by the commission. The bill would require the commission to determine the most efficient and equitable means for achieving prescribed objectives. The bill would exclude from the definition of a “load-serving entity” a local publicly owned electric utility, as defined, the State Water Resources Development System commonly known as the State Water Project, or certain customer generation.

(2) Existing law relative to electrical restructuring states the intent of the Legislature that the state’s local publicly owned electric

utilities, as defined, and electrical corporations should commit control of their transmission facilities to the ISO.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to undertake a continuing assessment of trends in the consumption of electricity and other forms of energy and to analyze the social, economic, and environmental consequences of those trends and to collect from electric utilities, gas utilities, and fuel producers and wholesalers and other sources, forecasts of future supplies and consumption of all forms of energy. Existing law requires the Energy Commission, beginning November 1, 2003, and every 2 years thereafter, to adopt an integrated energy policy report which includes an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation.

This bill would require that each local publicly owned electric utility serving end-use customers prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers. The bill would exempt certain customer generation from these requirements. The bill would require that each local publicly owned electric utility serving end-use customers, at a minimum, meet the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the Western Systems Coordinating Council or the Western Electricity Coordinating Council. The bill would require a local publicly owned electric utility serving end-use customers, upon request, to provide the Energy Commission with any information the Energy Commission determines is necessary to evaluate the progress made by the local publicly owned electric utility in meeting these requirements, and would require the Energy Commission to report the progress made by each utility to the Legislature, to be included in the integrated energy policy reports.

Because this bill would establish various requirements to be met by local publicly owned utilities, this bill would impose a state-mandated local program.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Certain provisions of this bill would be part of the act and an order or other action of the commission would be required to implement

certain of the provisions. Because a violation of those provisions or an order or other action of the commission implementing those provisions would be a crime, and because the bill would make certain violations by a load-serving entity a crime, this bill would thereby impose a state-mandated local program by creating new crimes and by expanding the definition of existing crimes.

(3) 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 specified reasons.

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

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

1 SECTION 1. Section 380 is added to the Public Utilities
2 Code, to read:
3 380. (a) The commission, in consultation with the
4 Independent System Operator, shall establish resource adequacy
5 requirements for all load-serving entities.
6 (b) In establishing resource adequacy requirements, the
7 commission shall achieve all of the following objectives:
8 (1) Facilitate development of new generating capacity and
9 retention of existing generating capacity that is economic and
10 needed.
11 (2) Equitably allocate the cost of generating capacity and
12 prevent shifting of costs between customer classes.
13 (3) Minimize enforcement requirements and costs.
14 (c) Each load-serving entity shall maintain physical generating
15 capacity adequate to meet its load requirements, including, but
16 not limited to, peak demand and planning and operating reserves.
17 The generating capacity shall be deliverable to locations and at
18 times as may be necessary to provide reliable electric service.
19 (d) Each load-serving entity shall, at a minimum, meet the
20 most recent minimum planning reserve and reliability criteria
21 approved by the Board of Trustees of the Western Systems
22 Coordinating Council or the Western Electricity Coordinating
23 Council.

1 (e) The commission shall implement and enforce the resource
2 adequacy requirements established in accordance with this
3 section in a nondiscriminatory manner. Each load-serving entity
4 shall be subject to the same requirements for resource adequacy
5 and the renewables portfolio standard program that are applicable
6 to electrical corporations pursuant to this section, or otherwise
7 required by law, or by order or decision of the commission. The
8 commission shall exercise its enforcement powers to ensure
9 compliance by all load-serving entities.

10 (f) The commission shall require sufficient information,
11 including, but not limited to, anticipated load, actual load, and
12 measures undertaken by a load-serving entity to ensure resource
13 adequacy, to be reported to enable the commission to determine
14 compliance with the resource adequacy requirements established
15 by the commission.

16 (g) An electrical corporation's costs of meeting resource
17 adequacy requirements, including, but not limited to, the costs
18 associated with system reliability and local area reliability, that
19 are determined to be reasonable by the commission, or are
20 otherwise recoverable under a procurement plan approved by the
21 commission pursuant to Section 454.5, shall be fully recoverable
22 from those customers on whose behalf the costs are incurred, as
23 determined by the commission, at the time the commitment to
24 incur the cost is made or thereafter, on a fully nonbypassable
25 basis, as determined by the commission. The commission shall
26 exclude any amounts authorized to be recovered pursuant to
27 Section 366.2 when authorizing the amount of costs to be
28 recovered from customers of a community choice aggregator or
29 from customers that purchase electricity through a direct
30 transaction pursuant to this subdivision.

31 (h) The commission shall determine and authorize the most
32 efficient and equitable means for achieving all of the following:

33 (1) Meeting the objectives of this section.

34 (2) Ensuring that investment is made in new generating
35 capacity.

36 (3) Ensuring that existing generating capacity that is economic
37 is retained.

38 (4) Ensuring that the cost of generating capacity is allocated
39 equitably.

(i) In making the determination pursuant to subdivision (h), the commission may consider a centralized resource adequacy mechanism among other options.

(j) For purposes of this section, “load-serving entity” means an electrical corporation, electric service provider, or community choice aggregator. “Load-serving entity” does not include any of the following:

(1) A local publicly owned electric utility as defined in Section 9604.

(2) The State Water Resources Development System commonly known as the State Water Project.

(3) ~~Customer-owned~~ *Customer* generation located on the customer’s site or providing electric service through arrangements authorized by Section 218, if the customer generation, or the load it serves, meets one of the following criteria:

(A) It takes standby service from the electrical corporation on a commission-approved rate schedule that provides for adequate backup planning and operating reserves for the standby customer class.

(B) It is not physically interconnected to the electric transmission or distribution grid, so that, if the customer generation fails, backup electricity is not supplied from the electricity grid.

(C) There is physical assurance that the load served by the customer generation will be curtailed concurrently and commensurately with an outage of the customer generation.

SEC. 2. Section 9620 is added to the Public Utilities Code, to read:

9620. (a) Each local publicly owned electric utility serving end-use customers, shall prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers. Customer generation located on the customer’s site or providing electric service through arrangements authorized by Section 218, shall not be subject to these requirements if the customer generation, or the load it serves, meets one of the following criteria:

(1) It takes standby service from the local publicly owned electric utility on a rate schedule that provides for adequate

1 backup planning and operating reserves for the standby customer
2 class.

3 (2) It is not physically interconnected to the electric
4 transmission or distribution grid, so that, if the customer
5 generation fails, backup power is not supplied from the
6 electricity grid.

7 (3) There is physical assurance that the load served by the
8 customer generation will be curtailed concurrently and
9 commensurately with an outage of the customer generation.

10 (b) Each local publicly owned electric utility serving end-use
11 customers shall, at a minimum, meet the most recent minimum
12 planning reserve and reliability criteria approved by the Board of
13 Trustees of the Western Systems Coordinating Council or the
14 Western Electricity Coordinating Council.

15 (c) A local publicly owned electric utility serving end-use
16 customers shall, upon request, provide the State Energy
17 Resources Conservation and Development Commission with any
18 information the State Energy Resources Conservation and
19 Development Commission determines is necessary to evaluate
20 the progress made by the local publicly owned electric utility in
21 meeting the requirements of this section.

22 (d) The State Energy Resources Conservation and
23 Development Commission shall report to the Legislature, to be
24 included in each integrated energy policy report prepared
25 pursuant to Section 25302 of the Public Resources Code,
26 regarding the progress made by each local publicly owned
27 electric utility serving end-use customers in meeting the
28 requirements of this section.

29 SEC. 3. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 certain costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the
34 penalty for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition of a
36 crime within the meaning of Section 6 of Article XIII B of the
37 California Constitution.

38 As to certain other costs, no reimbursement is required by this
39 act pursuant to Section 6 of Article XIII B of the California
40 Constitution because a local agency or school district has the

- 1 authority to levy service charges, fees, or assessments sufficient
- 2 to pay for the program or level of service mandated by this act,
- 3 within the meaning of Section 17556 of the Government Code.

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