

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 515**

**Introduced by Assembly Member Richman  
(Coauthor: Assembly Member Canciamilla)**

February 16, 2005

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An act to add Section ~~367.6 to the Public Utilities~~ 139 to the Water Code, relating to ~~electrical restructuring~~ the State Water Project.

LEGISLATIVE COUNSEL'S DIGEST

AB 515, as amended, Richman. ~~electrical corporations~~ *State Water Project: solar photovoltaic panels and systems.*

*Under existing law, the Department of Water Resources operates the State Water Project.*

*This bill would require the department to establish a program to authorize private entities to lease space above appropriate conveyance facilities of the State Water Project for the purposes of installing solar photovoltaic panels and generating electricity from those panels. The bill would require the department to evaluate proposals for installing solar photovoltaic panels, with the costs to be paid by the person or entity making the request. The bill would authorize the department to negotiate compensation for an agreement for the installation of solar photovoltaic panels and related systems for the transfer of electricity, that is equal to or exceeds the cost to the department of meeting its obligations under the agreement.*

~~(1) Under existing law, the Public Utilities Commission regulates electrical corporations. The Public Utilities Act requires the commission to authorize direct transactions between electricity suppliers and end-use customers. However, other existing law suspends the right of retail end-use customers to acquire direct access~~

~~service from certain electricity suppliers after a period of time to be determined by the commission until the Department of Water Resources no longer supplies electricity under a certain provision of law. Existing law requires the commission to review and adopt a procurement plan for each electrical corporation. The commission is required to establish procurement balancing accounts to track the differences between recorded revenues and costs to ensure that each electrical corporation timely recovers prospective procurement costs pursuant to their procurement plan.~~

~~The bill would require the commission, on or before January 1, 2006, to adopt rules under which noncore customers, as defined, by a date certain on or before June 30, 2006, elect whether to procure electricity service (commodity service) from an electric service provider, elect to receive commodity service from the electrical corporation under a procurement plan for a minimum period of 3 years, or receive default commodity service from the electrical corporation. Beginning January 1, 2007, an electrical corporation's obligation to provide commodity service from its procurement plan would extend only to core and core-elect customers, as defined, and to provide default commodity service to noncore customers. Default commodity service would be provided at the higher of the electrical corporation's costs of spot electricity purchases, or the tariff rate for core-elect customers purchasing commodity service pursuant to the electrical corporation's procurement plan. The commission would be required to establish rules to ensure that the costs of providing default commodity service to noncore customers are paid solely by those noncore customers, without impacting the rates and charges of core customers. The bill would require the commission, on or before July 1, 2006, to establish tariffs for noncore customers that include all applicable transmission, distribution, public goods, and cost recovery surcharge costs otherwise paid by noncore customers for certain purposes. Noncore customers that begin taking commodity service from an electric service provider on or after January 1, 2007, would be required to pay certain costs consistent with those costs that customers of a community choice aggregator are required to pay under existing law. The bill would require the commission to establish rules or tariffs that provide an option for residential customers to receive commodity service through direct transactions from renewable resources beginning January 1, 2007, consistent with cost recovery requirements applicable to community aggregators. Because a violation of a rule or~~

~~order of the commission is a crime, this bill would create a new crime, thereby imposing a state-mandated local program.~~

~~(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. It is the intent of the Legislature to do all of the~~  
2     ~~following:~~

3     ~~SECTION 1. The Legislature finds and declares that it is in~~  
4     ~~the interest of the state to conserve resources and to promote~~  
5     ~~projects that further that interest.~~

6     ~~SEC. 2. Section 139 is added to the Water Code, to read:~~

7     ~~139. (a) The department shall establish a program to~~  
8     ~~authorize private entities to lease space above appropriate~~  
9     ~~conveyance facilities of the State Water Project for the purpose~~  
10    ~~of installing solar photovoltaic panels and systems for generating~~  
11    ~~electricity from those panels and transferring electricity through~~  
12    ~~the related systems. Upon request, the department shall evaluate~~  
13    ~~proposals for installing solar photovoltaic panels and related~~  
14    ~~systems for the generation and transfer of electricity. The cost of~~  
15    ~~the evaluation shall be paid by the person or entity making the~~  
16    ~~request.~~

17    ~~(b) For the purposes of carrying out subdivision (a), the~~  
18    ~~department may negotiate any level of compensation for an~~  
19    ~~agreement for the installation of solar photovoltaic panels and~~  
20    ~~related systems that is equal to, or greater than, the cost to the~~  
21    ~~department of meeting its obligations under the agreement.~~

22    ~~(a) To establish a market structure in which electrical~~  
23    ~~corporations have an obligation to provide electric commodity~~  
24    ~~service to core customers, and core elect customers, from a~~  
25    ~~combined portfolio of generation resources allocated on a~~  
26    ~~nondiscriminatory, cost-of-service basis.~~

~~(b) To affirm the electrical corporation's obligation to provide transmission, distribution, and resource adequacy services for all customers.~~

~~(c) To allow noncore customers to elect, on prescribed terms, to receive commodity service from the electrical corporation or from an electric service provider without shifting costs to other customer classes.~~

~~(d) To require an electrical corporation to serve as default provider of commodity service, in a manner that will not increase costs of commodity service to core and core-elect customers, and to noncore customers that voluntarily or involuntarily return to the electrical corporation for service.~~

~~(e) To encourage the retention of existing and the development of new cogeneration resources to serve the state's electricity demand in a clean and efficient manner.~~

~~(f) To provide for and expedite the construction of electric generation capacity to meet the needs of a growing state and replace this state's most polluting and inefficient electric generation plants by phasing in a retail market for the most efficient and financially stable customers.~~

~~SEC. 2. Section 367.6 is added to the Public Utilities Code, to read:~~

~~367.6. (a) As used in this section, the following terms have the following meanings:~~

~~(1) "Commodity service" means electricity used by the customer or a supply of electricity available for use by the customer, and does not include services associated with the transmission and distribution of electricity.~~

~~(2) "Core customers" means small retail end-use customers of an electrical corporation that are unable as a result of economies of scale to efficiently enter into direct transactions, including customers with a maximum peak demand of less than 500 kilowatts.~~

~~(3) "Noncore customers" means larger retail end users of electricity that as a result of economies of scale, can efficiently enter into direct transactions, including end users with a maximum peak demand of 500 kilowatts or more, or as reduced by the commission. On or before January 1, 2009, the commission may reduce the noncore customer maximum peak demand threshold to accommodate load growth and reduction of~~

~~procurement obligations under Department of Water Resources power contracts being managed by the electrical corporations. When considering a reduction in the noncore threshold, the commission shall not strand generation costs in the electrical corporation's procurement plan portfolio, shift costs between core and noncore customers, or lower the threshold below 200 kilowatt maximum peak demand. On or before January 1, 2009, the commission may additionally establish rules allowing customers to aggregate demand to meet the noncore threshold.~~

~~(4) "Core-elect customer" means a noncore customer that makes an election to be served pursuant to the electrical corporation's procurement plan.~~

~~(b) Beginning January 1, 2007, an electrical corporation's obligation to provide commodity service from the electrical corporation's procurement plan portfolio, shall extend only to core and core-elect customers. The electric corporation's obligation to provide commodity service to noncore customers shall be limited to the provision of default service pursuant to subdivision (d). The electrical corporation's obligation to provide transmission, distribution and resource adequacy services shall extend to all customers.~~

~~(c) Beginning January 1, 2007, an electrical corporation shall have no obligation to procure electricity for noncore customers pursuant to a procurement plan, but shall have an obligation to procure electricity for core-elect customers that elect to receive commodity service for a minimum term of three years pursuant to the electrical corporation's procurement plan.~~

~~(d) The electrical corporation shall serve as a default provider of commodity service for all noncore customers. The electrical corporation shall provide default commodity service to noncore customers that, on or after January 1, 2007, voluntarily or involuntarily return to the electrical corporation for commodity service and have not elected to take commodity service as described in subdivisions (c) and (e). Default commodity service shall be provided at the higher of the electrical corporation's cost of spot electricity purchases, or the tariff rate for core-elect customers purchasing commodity service pursuant to the electrical corporation's procurement plan. The commission shall establish rules to ensure that the costs of providing default commodity service to noncore customers are paid solely by those~~

1 ~~noneore customers, without impacting the rates and charges of~~  
2 ~~core customers.~~

3 ~~(e) On or before January 1, 2006, the commission shall adopt~~  
4 ~~rules to implement this section. These rules shall include all of~~  
5 ~~the following:~~

6 ~~(1) A date certain, on or before June 30, 2006, by which~~  
7 ~~noneore customers must make an election to be served by the~~  
8 ~~electrical corporation for a minimum of three years as a~~  
9 ~~core-elect customer, or to receive service from an electric service~~  
10 ~~provider. Noneore customers failing to make an affirmative~~  
11 ~~election shall receive default commodity service.~~

12 ~~(2) Terms and condition under which noneore customers may~~  
13 ~~take default service, including the time period after which a~~  
14 ~~customer must select core-elect service or return to non-utility~~  
15 ~~service.~~

16 ~~(3) Provisions to ensure prompt recovery of reasonable costs~~  
17 ~~an electrical corporation incurs to serve customers pursuant to~~  
18 ~~this section, and in meeting its obligation to serve, and provisions~~  
19 ~~to ensure there is no cost shifting between customer classes.~~

20 ~~(4) A method for determining the rates and charges for core~~  
21 ~~and core-elect customers, and the default commodity service~~  
22 ~~price, including estimated prices to be in effect as of January 1,~~  
23 ~~2007.~~

24 ~~(5) Rules for the aggregation of customer load at multiple~~  
25 ~~meters for purposes of determining the core or noneore status of~~  
26 ~~a customer, including the use of appropriate meters.~~

27 ~~(6) Provisions to ensure that no cost-shifting occurs between~~  
28 ~~core and core-elect customers.~~

29 ~~(7) A six-month notice requirement to begin receiving or to~~  
30 ~~cancel core-elect service upon completion of the three year~~  
31 ~~commitment.~~

32 ~~(f) On or before July 1, 2006, the commission shall establish~~  
33 ~~tariffs for a noneore customer that include all applicable~~  
34 ~~transmission, distribution, public goods, and cost recovery~~  
35 ~~surcharge costs otherwise paid by noneore customers for the~~  
36 ~~following purposes:~~

37 ~~(1) To transmit over nondedicated electrical corporation~~  
38 ~~facilities, electricity generated by a corporation or person at one~~  
39 ~~location for consumption by the same corporation or person, or~~  
40 ~~an affiliated corporation, or person at a separate location.~~

1     ~~(2) To procure electricity from new or expanded generation~~  
2     ~~facilities.~~

3     ~~(3) To procure electricity from a cogeneration facility that sold~~  
4     ~~electricity to the electrical corporation on or after June 1, 2003.~~

5     ~~(g) In coordination with the resource planning and~~  
6     ~~procurement process established in Section 454.5, the~~  
7     ~~commission shall annually establish the appropriate mix and~~  
8     ~~level of long-term, medium-term, and short-term commitments to~~  
9     ~~be made by an electrical corporation, consistent with the~~  
10    ~~electrical corporation procurement obligations established in this~~  
11    ~~section, and shall ensure the flexibility needed to minimize~~  
12    ~~stranded procurement costs.~~

13    ~~(h) Noncore customers that begin taking commodity service~~  
14    ~~from an electric service provider on or after January 1, 2007,~~  
15    ~~shall be required to pay the costs described in subdivisions (d),~~  
16    ~~(e), (f), and (g) of Section 366.1, to the extent those costs~~  
17    ~~continue to be incurred by the electrical corporations, as~~  
18    ~~determined by the commission. Any customer receiving service~~  
19    ~~under a direct transaction prior to September 20, 2001, shall not~~  
20    ~~incur any additional obligations under this requirement unless~~  
21    ~~they become core-elect customers.~~

22    ~~(i) In consultation with the State Energy Resources~~  
23    ~~Conservation and Development Commission and the~~  
24    ~~Independent System Operator, the commission shall establish~~  
25    ~~resource adequacy requirements that ensure the availability of~~  
26    ~~planning reserves sufficient to serve all customers of the~~  
27    ~~electrical corporation, including noncore and community choice~~  
28    ~~aggregation customers. The resource adequacy requirements~~  
29    ~~shall ensure cost recovery by the electrical corporation for~~  
30    ~~acquired reserves through a nonbypassable component of the~~  
31    ~~electrical corporation's transmission and distribution charges.~~

32    ~~(j) The commission shall ensure that noncore customers~~  
33    ~~moving from core-elect to noncore commodity service at the end~~  
34    ~~of a three-year term, do not have an obligation for any future~~  
35    ~~costs incurred by the electrical corporation or Department of~~  
36    ~~Water Resources associated with the electrical corporation's~~  
37    ~~procurement plan, and that costs of the electrical corporation's~~  
38    ~~procurement plan shall be recoverable only from core and~~  
39    ~~core-elect customers served by the electrical corporation pursuant~~  
40    ~~to subdivision (c).~~

1     ~~(k) The commission shall ensure that all electric service~~  
2     ~~providers and community choice aggregators meet the renewable~~  
3     ~~portfolio standard and support demand-side management~~  
4     ~~programs, either directly or through in-lieu arrangements~~  
5     ~~approved by the commission.~~

6     ~~(l) The commission shall establish rules or tariffs that provide~~  
7     ~~an option for residential customers to receive commodity service~~  
8     ~~through direct transactions from renewable resources beginning~~  
9     ~~January 1, 2007, that fully compensates the electrical corporation~~  
10    ~~and the Department of Water Resources for the customer's~~  
11    ~~proportionate share of costs consistent with subdivisions (d), (e),~~  
12    ~~(f), and (g) of Section 366.1.~~

13    ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
14    ~~Section 6 of Article XIII B of the California Constitution because~~  
15    ~~the only costs that may be incurred by a local agency or school~~  
16    ~~district will be incurred because this act creates a new crime or~~  
17    ~~infraction, eliminates a crime or infraction, or changes the~~  
18    ~~penalty for a crime or infraction, within the meaning of Section~~  
19    ~~17556 of the Government Code, or changes the definition of a~~  
20    ~~crime within the meaning of Section 6 of Article XIII B of the~~  
21    ~~California Constitution.~~

22  
23  
24     **All matter omitted in this version of the bill**  
25     **appears in the bill as introduced in the**  
26     **Assembly, February 16, 2005 (JR11)**  
27