

ASSEMBLY BILL

No. 728

Introduced by Assembly Member Negrete McLeod

February 17, 2005

An act to amend Section 2827.9 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 728, as introduced, Negrete McLeod. Electricity: biogas digester customer-generators: net metering.

Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required, only until January 1, 2006, to provide eligible biogas digester customer-generators with net energy metering, as defined, under a pilot program. Existing law defines an "eligible biogas digester customer-generator," in part, as a customer of an electrical corporation that uses a biogas digester electrical generating facility, as defined, with a capacity of not more than one megawatt, that is located on or adjacent to the customer's premises, is interconnected and operates in parallel with the electric grid, and is sized to offset part or all of the customer's own electrical requirements and that receives certain funding.

Existing law requires an electrical corporation to file a standard tariff providing for net energy metering for eligible biogas digester customer-generators and to make the tariff available upon request on a first-come-first-served basis, until the total cumulative rated generating capacity used by the eligible biogas digester customer-generators equals 5 megawatts within the service territory of

the electrical corporation, with a combined statewide generating capacity not to exceed 15 megawatts.

This bill would extend indefinitely the operation of the biogas customer-generator program, as well as references to the program being a pilot program. The bill would modify the definition of an “eligible biogas digester customer-generator,” to authorize a biogas digester electrical generating facility with a capacity of not more than 10 megawatts.

This bill would require an electrical corporation to file a standard tariff providing for net energy metering for eligible biogas digester customer-generators and to make the tariff available upon request. The bill would delete the above-described 5 megawatt per electrical corporation and 15 megawatt statewide limitations upon the availability of the tariff.

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 of the Public Utilities Code is
 2 amended to read:

3 2827.9. (a) (1) The Legislature finds and declares that ~~a pilot~~
 4 ~~program to provide~~ net energy metering for eligible biogas
 5 digester customer-generators would enhance the continued
 6 diversification of California’s energy resource mix and would
 7 encourage the installation of livestock air emission controls that
 8 the State Air Resources Board believes may produce multiple
 9 environmental benefits.

10 (2) The Legislature further finds and declares that ~~the net~~
 11 ~~energy metering pilot program authorized pursuant to this section~~
 12 ~~for eligible biogas digester customer-generators, which nets out~~
 13 ~~generation charges against generation charges on a time of use~~
 14 ~~basis, furthers the intent of Chapter 7 of the Statutes of 2001,~~
 15 ~~First Extraordinary Session, by facilitating~~ *facilitates* the
 16 implementation of energy efficiency programs in order to reduce
 17 consumption of energy, reduce the costs associated with energy
 18 demand, and achieve a reduction in peak electricity demand.

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

20 (1) “Electrical corporation” means an electrical corporation,
 21 as defined in Section 218.

1 (2) (A) “Eligible biogas digester customer-generator” means
2 a customer of an electrical corporation that meets both of the
3 following criteria:

4 (i) Uses a biogas digester electrical generating facility with a
5 capacity of not more than ~~one megawatt~~ *10 megawatts* that is
6 located on or adjacent to the customer’s owned, leased, or rented
7 premises, is interconnected and operates in parallel with the
8 electric grid, and is sized to offset part or all of the eligible
9 biogas digester customer-generator’s own electrical
10 requirements.

11 (ii) Is the recipient of local, state, or federal funds, or who
12 self-finances ~~pilot~~ projects designed to encourage the
13 development of eligible biogas digester electrical generating
14 facilities.

15 (3) “Eligible biogas digester electrical generating facility”
16 means a generating facility used to produce electricity by either a
17 manure methane production project or as a byproduct of the
18 anaerobic digestion of bio-solids and animal waste.

19 (4) “Net energy metering” means measuring the difference
20 between the electricity supplied through the electric grid and the
21 difference between the electricity generated by an eligible biogas
22 digester customer-generator and fed back to the electric grid over
23 a 12-month period as described in subdivision (e). Net energy
24 metering shall be accomplished using a time of use meter capable
25 of registering the flow of electricity in two directions. If the
26 existing electrical meter of an eligible biogas digester
27 customer-generator is not capable of measuring the flow of
28 electricity in two directions, the eligible biogas digester
29 customer-generator shall be responsible for all expenses involved
30 in purchasing and installing a meter that is able to measure
31 electricity flow in two directions. If an additional meter or meters
32 are installed, the net energy metering calculation shall yield a
33 result identical to that of a time of use meter.

34 (c) Every electrical corporation shall, not later than 60 days
35 from the effective date of this section, file with the commission a
36 standard tariff providing for net energy metering for eligible
37 biogas digester customer-generators, consistent with this section.
38 Every electrical corporation shall make this tariff available to
39 eligible biogas digester customer-generators upon request, ~~on a~~
40 ~~first come, first serve basis, until the total cumulative rated~~

1 ~~generating capacity used by the eligible biogas digester~~
2 ~~customer-generators equals 5 megawatts within the service~~
3 ~~territory of the electrical corporation. The combined statewide~~
4 ~~cumulative rated generating capacity used by the eligible biogas~~
5 ~~digester customer-generators in the service territories of all three~~
6 ~~electrical corporations in the state may not exceed 15 megawatts.~~

7 (d) Each net energy metering contract or tariff shall be
8 identical, with respect to rate structure, all retail rate components,
9 and any monthly charges, to the contract or tariff to which the
10 same customer would be assigned if the customer was not an
11 eligible biogas digester customer-generator, except as set forth in
12 subdivision (e). Any new or additional demand charge, standby
13 charge, customer charge, minimum monthly charge,
14 interconnection charge, or other charge that would increase an
15 eligible biogas digester customer-generator's costs beyond those
16 of other customers in the rate class to which the eligible biogas
17 digester customer-generator would otherwise be assigned are
18 contrary to the intent of this legislation, and shall not form a part
19 of net energy metering tariffs.

20 (e) The net energy metering calculation shall be made by
21 measuring the difference between the electricity supplied to the
22 eligible customer-generator and the electricity generated by the
23 eligible customer-generator and fed back to the electric grid over
24 a 12-month period. The following rules shall apply to the
25 annualized metering calculation:

26 (1) The eligible biogas digester customer-generator shall, at
27 the end of each 12-month period following the date of final
28 interconnection of the eligible biogas digester
29 customer-generator's system with an electrical corporation, and
30 at each anniversary date thereafter, be billed for electricity used
31 during that period. The electrical corporation shall determine if
32 the eligible biogas digester customer-generator was a net
33 consumer or a net producer of electricity during that period. For
34 purposes of determining if the biogas digester
35 customer-generator was a net consumer or a net producer of
36 electricity during that period, the electrical corporation shall
37 aggregate the electrical load of a dairy operation under the same
38 ownership, including, but not limited to, the electrical load
39 attributable to milking operations, milk refrigeration, and water
40 pumping located on property adjacent or ~~continuous~~ *contiguous*

1 to the dairy. Each aggregated account shall be billed and
2 measured according to a time of use rate schedule.

3 (2) At the end of each 12-month period, where the electricity
4 supplied during the period by the electrical corporation exceeds
5 the electricity generated by the eligible biogas digester
6 customer-generator during that same period, the eligible biogas
7 digester customer-generator is a net electricity consumer and the
8 electrical corporation shall be owed compensation for the eligible
9 biogas digester customer-generator's net kilowatthour
10 consumption over that same period. The compensation owed for
11 the eligible biogas digester customer-generator's consumption
12 shall be calculated as follows:

13 (A) The generation charges for any net monthly consumption
14 of electricity shall be calculated according to the terms of the
15 tariff to which the same customer would be assigned to or be
16 eligible for if the customer was not an eligible biogas digester
17 customer-generator. When those eligible biogas digester
18 customer-generators are net generators during any discrete time
19 of use period, the net kilowatthours produced shall be valued at
20 the same price per kilowatthour as the electrical corporation
21 would charge for retail kilowatthour sales for generation,
22 exclusive of any surcharges, during that same time of use period.
23 If the eligible biogas digester customer-generator's time of use
24 electrical meter is unable to measure the flow of electricity in two
25 directions, paragraph (4) of subdivision (b) shall apply. All other
26 charges, other than generation charges, shall be calculated in
27 accordance with the eligible biogas digester customer-generator's
28 applicable tariff and based on the total kilowatthours delivered
29 by the electrical corporation to the eligible biogas digester
30 customer-generator. To the extent that charges for transmission
31 and distribution services are recovered through demand charges
32 in any particular month, no standby reservation charges shall
33 apply in that monthly billing cycle.

34 (B) The net balance of moneys owed shall be paid in
35 accordance with the electrical corporation's normal billing cycle.

36 (3) At the end of each 12-month period, where the electricity
37 generated by the eligible biogas digester customer-generator
38 during the 12-month period exceeds the electricity supplied by
39 the electrical corporation during that same period, the eligible
40 biogas digester customer-generator is a net electricity producer

1 and the electrical corporation shall retain any excess
2 kilowatthours generated during the prior 12-month period. The
3 eligible biogas digester customer-generator shall not be owed any
4 compensation for those excess kilowatthours.

5 (4) If an eligible biogas digester customer-generator
6 terminates service with the electrical corporation, the electrical
7 corporation shall reconcile the eligible biogas digester
8 customer-generator's consumption and production of electricity
9 during any 12-month period.

10 ~~(f) This section shall remain in effect only until January 1,~~
11 ~~2006, and as of that date is repealed, unless a later enacted~~
12 ~~statute, that is enacted before January 1, 2006, deletes or extends~~
13 ~~that date.~~