

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

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 amended, 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 until December 31, 2009, and would authorize an eligible biogas digester customer-generator to continue to receive service pursuant to the net energy metering tariff for the life of the facility, after December 31, 2009. The bill would modify the definition of an “eligible biogas digester customer-generator,” to authorize a up to 3 large biogas digester electrical generating facility facilities with a capacity of more than one megawatt and not more than 10 megawatts. The bill would delete the above-described 5 megawatt per electrical corporation limitation on eligibility for the pilot program and would increase the current 15 megawatt statewide limitation to 50 megawatts. The bill would require the commission to report certain information relative to the pilot program to the Legislature on or before December 31, 2009.~~

~~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.~~

Under existing law, the failure to file a required tariff, or a violation of an order or direction of the commission, including a commission approved tariff, is a crime.

Because the bill would require electrical corporations to file new tariffs and would continue tariffs in effect past their current repeal date, the bill would impose a state-mandated local program by creating new crimes.

Vote: 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. 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

1 diversification of California's energy resource mix and would
2 encourage the installation of livestock air emission controls that
3 the State Air Resources Board believes may produce multiple
4 environmental benefits.

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

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

15 (1) "Electrical corporation" means an electrical corporation,
16 as defined in Section 218.

17 (2) (A) "Eligible biogas digester customer-generator" means
18 a customer of an electrical corporation that meets both of the
19 following criteria:

20 (i) Uses a biogas digester electrical generating facility with a
21 capacity of not more than one megawatt that is located on or
22 adjacent to the customer's owned, leased, or rented premises, is
23 interconnected and operates in parallel with the electric grid, and
24 is sized to offset part or all of the eligible biogas digester
25 customer-generator's own electrical requirements.
26 *Notwithstanding the above, up to three large biogas digester*
27 *electrical generating facilities with a generating capacity of*
28 *more than one megawatt and not more than 10 megawatts,*
29 *meeting the criteria of this clause, shall be eligible for*
30 *participation in the pilot program.*

31 (ii) Is the recipient of local, state, or federal funds, or who
32 self-finances pilot projects designed to encourage the
33 development of eligible biogas digester electrical generating
34 facilities.

35 (3) "Eligible biogas digester electrical generating facility"
36 means a generating facility used to produce electricity by either a
37 manure methane production project or as a byproduct of the
38 anaerobic digestion of bio-solids and animal waste.

39 (4) "Net energy metering" means measuring the difference
40 between the electricity supplied through the electric grid and the

1 difference between the electricity generated by an eligible biogas
2 digester customer-generator and fed back to the electric grid over
3 a 12-month period as described in subdivision (e). Net energy
4 metering shall be accomplished using a time of use meter capable
5 of registering the flow of electricity in two directions. If the
6 existing electrical meter of an eligible biogas digester
7 customer-generator is not capable of measuring the flow of
8 electricity in two directions, the eligible biogas digester
9 customer-generator shall be responsible for all expenses involved
10 in purchasing and installing a meter that is able to measure
11 electricity flow in two directions. If an additional meter or meters
12 are installed, the net energy metering calculation shall yield a
13 result identical to that of a time of use meter.

14 (c) Every electrical corporation shall, ~~not later than 60 days~~
15 ~~from the effective date of this section,~~ file with the commission a
16 standard tariff providing for net energy metering for eligible
17 biogas digester customer-generators, consistent with this section.
18 Every electrical corporation shall make this tariff available to
19 eligible biogas digester customer-generators upon request, on a
20 first come, first serve basis, until the ~~total cumulative rated~~
21 ~~generating capacity used by the eligible biogas digester~~
22 ~~customer-generators equals 5 megawatts within the service~~
23 ~~territory of the electrical corporation.~~ The combined statewide
24 cumulative rated generating capacity used by the eligible biogas
25 digester customer-generators in the service territories of ~~all the~~
26 ~~three largest electrical corporations in the state may not exceed~~
27 ~~15 reaches 50 megawatts. An eligible biogas digester~~
28 ~~customer-generator shall be eligible for the tariff for the life of~~
29 ~~the eligible biogas digester electrical generating facility.~~

30 (d) Each net energy metering contract or tariff shall be
31 identical, with respect to rate structure, all retail rate components,
32 and any monthly charges, to the contract or tariff to which the
33 same customer would be assigned if the customer was not an
34 eligible biogas digester customer-generator, except as set forth in
35 subdivision (e). Any new or additional demand charge, standby
36 charge, customer charge, minimum monthly charge,
37 interconnection charge, or other charge that would increase an
38 eligible biogas digester customer-generator's costs beyond those
39 of other customers in the rate class to which the eligible biogas
40 digester customer-generator would otherwise be assigned are

1 contrary to the intent of this legislation, and shall not form a part
2 of net energy metering tariffs.

3 (e) The net energy metering calculation shall be made by
4 measuring the difference between the electricity supplied to the
5 eligible customer-generator and the electricity generated by the
6 eligible customer-generator and fed back to the electric grid over
7 a 12-month period. The following rules shall apply to the
8 annualized metering calculation:

9 (1) The eligible biogas digester customer-generator shall, at
10 the end of each 12-month period following the date of final
11 interconnection of the eligible biogas digester
12 customer-generator's system with an electrical corporation, and
13 at each anniversary date thereafter, be billed for electricity used
14 during that period. The electrical corporation shall determine if
15 the eligible biogas digester customer-generator was a net
16 consumer or a net producer of electricity during that period. For
17 purposes of determining if the biogas digester
18 customer-generator was a net consumer or a net producer of
19 electricity during that period, the electrical corporation shall
20 aggregate the electrical load of a dairy operation under the same
21 ownership, including, but not limited to, the electrical load
22 attributable to milking operations, milk refrigeration, and water
23 pumping located on property adjacent or continuous to the dairy.
24 Each aggregated account shall be billed and measured according
25 to a time of use rate schedule.

26 (2) At the end of each 12-month period, where the electricity
27 supplied during the period by the electrical corporation exceeds
28 the electricity generated by the eligible biogas digester
29 customer-generator during that same period, the eligible biogas
30 digester customer-generator is a net electricity consumer and the
31 electrical corporation shall be owed compensation for the eligible
32 biogas digester customer-generator's net kilowatthour
33 consumption over that same period. The compensation owed for
34 the eligible biogas digester customer-generator's consumption
35 shall be calculated as follows:

36 (A) The generation charges for any net monthly consumption
37 of electricity shall be calculated according to the terms of the
38 tariff to which the same customer would be assigned to or be
39 eligible for if the customer was not an eligible biogas digester
40 customer-generator. When those eligible biogas digester

1 customer-generators are net generators during any discrete time
2 of use period, the net kilowatthours produced shall be valued at
3 the same price per kilowatthour as the electrical corporation
4 would charge for retail kilowatthour sales for generation,
5 exclusive of any surcharges, during that same time of use period.
6 If the eligible biogas digester customer-generator's time of use
7 electrical meter is unable to measure the flow of electricity in two
8 directions, paragraph (4) of subdivision (b) shall apply. All other
9 charges, other than generation charges, shall be calculated in
10 accordance with the eligible biogas digester customer-generator's
11 applicable tariff and based on the total kilowatthours delivered
12 by the electrical corporation to the eligible biogas digester
13 customer-generator. To the extent that charges for transmission
14 and distribution services are recovered through demand charges
15 in any particular month, no standby reservation charges shall
16 apply in that monthly billing cycle.

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

19 (3) At the end of each 12-month period, where the electricity
20 generated by the eligible biogas digester customer-generator
21 during the 12-month period exceeds the electricity supplied by
22 the electrical corporation during that same period, the eligible
23 biogas digester customer-generator is a net electricity producer
24 and the electrical corporation shall retain any excess
25 kilowatthours generated during the prior 12-month period. The
26 eligible biogas digester customer-generator shall not be owed any
27 compensation for those excess kilowatthours.

28 (4) If an eligible biogas digester customer-generator
29 terminates service with the electrical corporation, the electrical
30 corporation shall reconcile the eligible biogas digester
31 customer-generator's consumption and production of electricity
32 during any 12-month period.

33 ~~(f) This section shall remain in effect only until January 1,~~
34 ~~2006, and as of that date is repealed, unless a later enacted~~
35 ~~statute, that is enacted before January 1, 2006, deletes or extends~~
36 ~~that date.~~

37 *(f) No biogas digester electrical generating facility shall be*
38 *eligible for participation in the tariff established pursuant to this*
39 *section, that has not commenced operation by December 31,*
40 *2009. A biogas digester customer-generator shall be eligible for*

1 *the tariff established pursuant to this section, only for the*
2 *operating life of the eligible biogas digester electrical generating*
3 *facility.*

4 *(g) On or before December 31, 2009, the commission shall*
5 *report to the Legislature all of the following information:*

6 *(1) The impact of the pilot program on emissions of air*
7 *pollutants.*

8 *(2) The impact of the pilot program on the reliability of the*
9 *transmission and distribution grid.*

10 *(3) The impact of the pilot program on ratepayers.*

11 *SEC. 2. No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution because*
13 *the only costs that may be incurred by a local agency or school*
14 *district will be incurred because this act creates a new crime or*
15 *infraction, eliminates a crime or infraction, or changes the*
16 *penalty for a crime or infraction, within the meaning of Section*
17 *17556 of the Government Code, or changes the definition of a*
18 *crime within the meaning of Section 6 of Article XIII B of the*
19 *California Constitution.*

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22 **All matter omitted in this version of the bill**
23 **appears in the bill as introduced in**
24 **Assembly, February 17, 2005 (JR11)**
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