SENATE BILL No. 1048

Introduced by Senator Machado

February 22, 2005

An act to amend Sections 353.1, 353.2, and 353.13 of the Public Utilities Code, relating to electrical restructuring.

LEGISLATIVE COUNSEL'S DIGEST

SB 1048, as introduced, Machado. Electrical restructuring: distributed energy resources.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law pertaining to electrical restructuring requires the commission to impose requirements upon electrical corporations to facilitate customer generation of electricity from distributed energy resources and ultraclean and low-emission distributed generation. Existing law defines "distributed energy resources" to mean any electric generation technology that meets certain criteria, including: (1) having commenced initial operation between May 1, 2001, and June 1, 2003, except that gas-fired distributed energy resources that are not operated in a combined heat and power application must commence operation no later than September 1, 2002, and (2) being 5 megawatts or smaller in aggregate capacity. Existing law defines "ultraclean and low-emission distributed generation" as an electric generation technology that produces zero emissions during operation or that produces emissions that are equal to or less than limits established by the State Air Resources Board, if the electric generation technology commences operation between January 1, 2003, and December 31, 2008. That definition requires that technologies operating by combustion operate in a combined heat and power application with a 60% system efficiency on a higher heating value.

This bill would change the criteria for distributed energy resources to include electric generation technology that commences initial operation between May 1, 2001, and December 31, 2010, and has 40 megawatts or smaller in aggregate capacity. The bill would modify the definition of "ultraclean and low-emission distributed generation" as an electric generation technology that produces zero emissions during operation or that produces emissions that are equal to or less than the limits established by the State Air Resources Board, if the electric generation technology commences operation between January 1, 2003, and December 31, 2010. The bill would make other conforming changes.

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

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

SECTION 1. Section 353.1 of the Public Utilities Code is amended to read:

353.1. As used in this article, "distributed energy resources" means any electric generation technology that meets all of the following criteria:

(a) Commences initial operation between May 1, 2001, and ~~June 1, 2003, except that gas-fired distributed energy resources that are not operated in a combined heat and power application must commence operation no later than September 1, 2002~~ *December 31, 2010*.

(b) Is located within a single facility.

(c) Is ~~five~~ *40* megawatts or smaller in aggregate capacity.

(d) Serves onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

(e) Is powered by any fuel other than diesel.

(f) Complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purpose of this article, distributed energy resources shall meet emissions levels equivalent to nine parts per million oxides of nitrogen, or the equivalent standard taking into account efficiency as determined by the State Air Resources Board, averaged over a three-hour period, or best available control technology for the applicable air

district, whichever is lower, except for distributed generation units that displace and therefore significantly reduce emissions from natural gas flares or reinjection compressors, as determined by the State Air Resources Control Board. These units shall comply with the applicable best available control technology as determined by the air pollution control district or air quality management district in which they are located.

SEC. 2. Section 353.2 of the Public Utilities Code is amended to read:

353.2. (a) As used in this article, "ultra-clean and low-emission distributed generation" means any electric generation technology that meets both of the following criteria:

(1) Commences initial operation between January 1, 2003, and December 31, ~~2008~~ *2010*.

(2) Produces zero emissions during its operation or produces emissions during its operation that are equal to or less than the 2007 State Air Resources Board emission limits for distributed generation, except that technologies operating by combustion must operate in a combined heat and power application with a 60-percent system efficiency on a higher heating value.

(b) In establishing rates and fees, the commission may consider energy efficiency and emissions performance to encourage early compliance with air quality standards established by the State Air Resources Board for ultra-clean and low-emission distributed generation.

SEC. 3. Section 353.13 of the Public Utilities Code is amended to read:

353.13. (a) The commission shall require each electrical corporation to establish new tariffs on or before January 1, 2003, for customers using distributed energy resources, including, but not limited to, those that do not meet all of the criteria described in Section 353.1. However, after January 1, 2003, distributed energy resources that meet all of the criteria described in Section 353.1 shall continue to be subject only to those tariffs in existence pursuant to Section 353.3, until June 1, 2011~~, except that installations that do not operate in a combined heat and power application will be subject to those tariffs in existence pursuant to Section 353.3 only until June 1, 2006~~. Those tariffs required pursuant to this section shall ensure that all net distribution costs incurred to serve each customer class, taking

into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, are fully recovered only from that class. The commission shall require each electrical corporation, in establishing those rates, to ensure that customers with similar load profiles within a customer class will, to the extent practicable, be subject to the same utility rates, regardless of their use of distributed energy resources to serve onsite loads or over-the-fence transactions allowed under Sections 216 and 218. Customers with dedicated facilities shall remain responsible for their obligations regarding payment for those facilities.

(b) The commission shall prepare and submit to the Legislature, on or before June 1, 2002, a report describing its proposed methodology for determining the new rates and the process by which it will establish those rates.

(c) In establishing the tariffs, the commission shall consider coincident peakload, and the reliability of the onsite generation, as determined by the frequency and duration of outages, so that customers with more reliable onsite generation and those that reduce peak demand pay a lower cost-based rate.

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