

Senate Bill No. 43

Passed the Senate September 11, 2013

Secretary of the Senate

Passed the Assembly September 11, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Chapter 7.6 (commencing with Section 2831) of Part 2 of Division 1 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, Wolk. Electricity: Green Tariff Shared Renewables Program.

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, the local government renewable energy self-generation program authorizes a local government to receive a bill credit to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account.

This bill would enact the Green Tariff Shared Renewables Program. The program would require a participating utility, defined as being an electrical corporation with 100,000 or more customers in California, to file with the commission an application requesting approval of a green tariff shared renewables program to implement a program enabling ratepayers to participate directly in offsite electrical generation facilities that use eligible renewable energy resources, consistent with certain legislative findings and statements of intent. The bill would require the commission, by July 1, 2014, to issue a decision concerning the participating utility's application, determining whether to approve or disapprove the application, with or without modifications. The bill would require the commission, after notice and opportunity for public comment, to approve the application if the commission determines that the proposed program is reasonable and consistent with the legislative findings and statements of intent. The bill would require the commission to require that a participating utility's green tariff shared renewables program be administered in accordance with

specified provisions. The bill would repeal the program on January 1, 2019.

(2) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of the bill would require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(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 a specified reason.

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

SECTION 1. Chapter 7.6 (commencing with Section 2831) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 7.6. GREEN TARIFF SHARED RENEWABLES PROGRAM

2831. The Legislature finds and declares all of the following:

(a) Building operational generating facilities that utilize sources of renewable energy within California, to supply the state's demand for electricity, provides significant financial, health, environmental, and workforce benefits to the State of California.

(b) The California Solar Initiative will achieve its goals, resulting in over 150,000 residential and commercial onsite installations of solar energy systems. However, the California Solar Initiative cannot reach all residents and businesses that want to participate and is limited to only solar energy systems and not other eligible renewable energy resources. A green tariff shared renewables program seeks to build on the success of the California Solar Initiative by expanding access to all eligible renewable energy resources to all ratepayers who are currently unable to access the benefits of onsite generation.

(c) There is widespread interest from many large institutional customers, including schools, colleges, universities, local

governments, businesses, and the military, for the development of generation facilities that are eligible renewable energy resources to serve more than 33 percent of their energy needs.

(d) Public institutions will benefit from a green tariff shared renewables program's enhanced flexibility to participate in shared generation facilities that are eligible renewable energy resources.

(e) Building operational generating facilities that are eligible renewable energy resources creates jobs, reduces emissions of greenhouse gases, and promotes energy independence.

(f) Many large energy users in California have pursued onsite electrical generation from eligible renewable energy resources, but cannot achieve their goals due to rooftop or land space limitations, or size limits on net energy metering. The enactment of this chapter will create a mechanism whereby institutional customers, such as military installations, universities, and local governments, as well as commercial customers and groups of individuals, can meet their needs with electrical generation from eligible renewable energy resources.

(g) It is the intent of the Legislature that a green tariff shared renewables program be implemented in such a manner that facilitates a large, sustainable market for offsite electrical generation from facilities that are eligible renewable energy resources, while fairly compensating electrical corporations for the services they provide, without affecting nonparticipating ratepayers.

(h) It is the further intent of the Legislature that a green tariff shared renewables program be implemented in a manner that ensures nonparticipating ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers.

2831.5. (a) This chapter shall be known, and may be cited, as the Green Tariff Shared Renewables Program.

(b) For purposes of this chapter, the following terms have the following meanings:

(1) "Eligible renewable energy resource," "renewable energy credit," and "renewables portfolio standard" have the same meaning as those terms have for the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

(2) “Participating utility” means an electrical corporation with 100,000 or more customer accounts in California.

2832. (a) On or before March 1, 2014, a participating utility shall file with the commission an application requesting approval of a green tariff shared renewables program to implement a program that the utility determines is consistent with the legislative findings and statements of intent of Section 2831. Nothing in this chapter limits an electrical corporation with less than 100,000 customer accounts in California from filing an application with the commission to administer a green tariff shared renewables program that is consistent with the legislative findings and statements of intent of Section 2831.

(b) On or before July 1, 2014, the commission shall issue a decision on the participating utility’s application for a green tariff shared renewables program, determining whether to approve or disapprove it, with or without modifications.

(c) After notice and an opportunity for public comment, the commission shall approve an application by a participating utility for a green tariff shared renewables program if the commission determines that the program is reasonable and consistent with the legislative findings and statements of intent of Section 2831.

(d) The requirements of this chapter shall not apply to an electrical corporation that, prior to May 1, 2013, filed an application with the commission to have a green tariff shared renewables program, or an equivalent program of whatever name, provided the commission approves the application with a determination that the program does not shift costs to nonparticipating customers and the application is consistent with this chapter. If the commission has approved a settlement agreement relative to parties contesting an application filed prior to May 1, 2013, the requirements of this section shall not apply if the commission, within a reasonable period of time, requires revisions to the previously approved settlement agreement that requires the program to be consistent with this chapter.

2833. (a) The commission shall require a green tariff shared renewables program to be administered by a participating utility in accordance with this section.

(b) Generating facilities participating in a participating utility’s green tariff shared renewables program shall be eligible renewable energy resources with a nameplate rated generating capacity not

exceeding 20 megawatts, except for those generating facilities reserved for location in areas identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities pursuant to paragraph (1) of subdivision (d), which shall not exceed one megawatt nameplate rated generating capacity.

(c) A participating utility shall use commission-approved tools and mechanisms to procure additional eligible renewable energy resources for the green tariff shared renewables program from electrical generation facilities that are in addition to those required by the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1). For purposes of this subdivision, “commission-approved tools and mechanisms” means those procurement methods approved by the commission for an electrical corporation to procure eligible renewable energy resources for purposes of meeting the procurement requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

(d) A participating utility shall permit customers within the service territory of the utility to purchase electricity pursuant to the tariff approved by the commission to implement the utility’s green tariff shared renewables program, until the utility meets its proportionate share of a statewide limitation of 600 megawatts of customer participation, measured by nameplate rated generating capacity. The proportionate share shall be calculated based on the ratio of each participating utility’s retail sales to total retail sales of electricity by all participating utilities. The commission may place other restrictions on purchases under a green tariff shared renewables program, including restricting participation to a certain level of capacity each year. The following restrictions shall apply to the statewide 600 megawatt limitation:

(1) (A) One hundred megawatts shall be reserved for facilities that are no larger than one megawatt nameplate rated generating capacity and that are located in areas previously identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities. These communities shall be identified by census tract, and shall be determined to be the most impacted 20 percent based on results from the best available

cumulative impact screening methodology designed to identify each of the following:

(i) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.

(ii) Areas with socioeconomic vulnerability.

(B) (1) For purposes of this paragraph, “previously identified” means identified prior to commencing construction of the facility.

(2) Not less than 100 megawatts shall be reserved for participation by residential class customers.

(3) Twenty megawatts shall be reserved for the City of Davis.

(e) To the extent possible, a participating utility shall seek to procure eligible renewable energy resources that are located in reasonable proximity to enrolled participants.

(f) A participating utility’s green tariff shared renewables program shall support diverse procurement and the goals of commission General Order 156.

(g) A participating utility’s green tariff shared renewables program shall not allow a customer to subscribe to more than 100 percent of the customer’s electricity demand.

(h) Except as authorized by this subdivision, a participating utility’s green tariff shared renewables program shall not allow a customer to subscribe to more than two megawatts of nameplate generating capacity. This limitation does not apply to a federal, state, or local government, school or school district, county office of education, the California Community Colleges, the California State University, or the University of California.

(i) A participating utility’s green tariff shared renewables program shall not allow any single entity or its affiliates or subsidiaries to subscribe to more than 20 percent of any single calendar year’s total cumulative rated generating capacity.

(j) To the extent possible, a participating utility shall actively market the utility’s green tariff shared renewables program to low-income and minority communities and customers.

(k) Participating customers shall receive bill credits for the generation of a participating eligible renewable energy resource using the class average retail generation cost as established in the participating utility’s approved tariff for the class to which the participating customer belongs, plus a renewables adjustment value representing the difference between the time-of-delivery profile

of the eligible renewable energy resource used to serve the participating customer and the class average time-of-delivery profile and the resource adequacy value, if any, of the resource contained in the utility's green tariff shared renewables program. The renewables adjustment value applicable to a time-of-delivery profile of an eligible renewable energy resource shall be determined according to rules adopted by the commission. For these purposes, "time-of-delivery profile" refers to the daily generating pattern of a participating eligible renewable energy resource over time, the value of which is determined by comparing the generating pattern of that participating eligible renewable energy resource to the demand for electricity over time and other generating resources available to serve that demand.

(l) Participating customers shall pay a renewable generation rate established by the commission, the administrative costs of the participating utility, and any other charges the commission determines are just and reasonable to fully cover the cost of procuring a green tariff shared renewables program's resources to serve a participating customer's needs.

(m) A participating customer's rates shall be debited or credited with any other commission-approved costs or values applicable to the eligible renewable energy resources contained in a participating utility's green tariff shared renewables program's portfolio. These additional costs or values shall be applied to new customers when they initially subscribe after the cost or value has been approved by the commission.

(n) Participating customers shall pay all otherwise applicable charges without modification.

(o) A participating utility shall provide support for enhanced community renewables programs to facilitate development of eligible renewable energy resource projects located close to the source of demand.

(p) The commission shall ensure that charges and credits associated with a participating utility's green tariff shared renewables program are set in a manner that ensures nonparticipant ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers and ensures that no costs are shifted from participating customers to nonparticipating ratepayers.

(q) A participating utility shall track and account for all revenues and costs to ensure that the utility recovers the actual costs of the utility's green tariff shared renewables program and that all costs and revenues are fully transparent and auditable.

(r) Any renewable energy credits associated with electricity procured by a participating utility for the utility's green tariff shared renewables program and utilized by a participating customer shall be retired by the participating utility on behalf of the participating customer. Those renewable energy credits shall not be further sold, transferred, or otherwise monetized for any purpose. Any renewable energy credits associated with electricity procured by a participating utility for the shared renewable energy self-generation program, but not utilized by a participating customer, shall be counted toward meeting that participating utility's renewables portfolio standard.

(s) A participating utility shall, in the event of participant customer attrition or other causes that reduce customer participation or electrical demand below generation levels, apply the excess generation from the eligible renewable energy resources procured through the utility's green tariff shared renewables program to the utility's renewable portfolio standard procurement obligations or bank the excess generation for future use to benefit all customers in accordance with the renewables portfolio standard banking and procurement rules approved by the commission.

(t) In calculating its procurement requirements to meet the requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1), a participating utility may exclude from total retail sales the kilowatthours generated by an eligible renewable energy resource that is credited to a participating customer pursuant to the utility's green tariff shared renewables program, commencing with the point in time at which the generating facility achieves commercial operation.

(u) All renewable energy resources procured on behalf of participating customers in the participating utility's green tariff shared renewables program shall comply with the State Air Resources Board's Voluntary Renewable Electricity Program. California-eligible greenhouse gas allowances associated with these purchases shall be retired on behalf of participating customers as part of the board's Voluntary Renewable Electricity Program.

(v) A participating utility shall provide a municipality with aggregated consumption data for participating customers within the municipality's jurisdiction to allow for reporting on progress toward climate action goals by the municipality. A participating utility shall also publicly disclose, on a geographic basis, consumption data and reductions in emissions of greenhouse gases achieved by participating customers in the utility's green tariff shared renewables program, on an aggregated basis consistent with privacy protections as specified in Chapter 5 (commencing with Section 8380) of Division 4.1.

(w) Nothing in this section prohibits or restricts a community choice aggregator from offering its own voluntary renewable energy programs to participating customers of the community choice aggregation.

2834. This chapter shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

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

Approved _____, 2013

Governor