

AMENDED IN SENATE MAY 16, 2000

**SENATE BILL**

**No. 1709**

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**Introduced by Senator Kelley**

February 22, 2000

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An act to amend Section 218 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1709, as amended, Kelley. Public utilities: electrical corporation.

The Public Utilities Act defines electrical corporation to include every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others. The act specifically excludes specified power producers from that definition, including a corporation or person employing landfill gas technology for the generation of electricity for certain purposes.

This bill, in addition, would exclude those corporations or persons employing digester gas technology *for the generation of electricity* for certain purposes from the definition of an electrical corporation.

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 218 of the Public Utilities Code  
2 is amended to read:

3 218. (a) “Electrical corporation” includes every  
4 corporation or person owning, controlling, operating, or  
5 managing any electric plant for compensation within this  
6 state, except where electricity is generated on or  
7 distributed by the producer through private property  
8 solely for its own use or the use of its tenants and not for  
9 sale or transmission to others.

10 (b) “Electrical corporation” does not include a  
11 corporation or person employing cogeneration  
12 technology or producing power from other than a  
13 conventional power source for the generation of  
14 electricity solely for any one or more of the following  
15 purposes:

16 (1) Its own use or the use of its tenants.

17 (2) The use of or sale to not more than two other  
18 corporations or persons solely for use on the real property  
19 on which the electricity is generated or on real property  
20 immediately adjacent thereto, unless there is an  
21 intervening public street constituting the boundary  
22 between the real property on which the electricity is  
23 generated and the immediately adjacent property and  
24 one or more of the following applies:

25 (A) The real property on which the electricity is  
26 generated and the immediately adjacent real property is  
27 not under common ownership or control, or that common  
28 ownership or control was gained solely for purposes of  
29 sale of the electricity so generated and not for other  
30 business purposes.

31 (B) The useful thermal output of the facility  
32 generating the electricity is not used on the immediately  
33 adjacent property for petroleum production or refining.

34 (C) The electricity furnished to the immediately  
35 adjacent property is not utilized by a subsidiary or affiliate  
36 of the corporation or person generating the electricity.

37 (3) Sale or transmission to an electrical corporation or  
38 state or local public agency, but not for sale or

1 transmission to others, unless the corporation or person is  
2 otherwise an electrical corporation.

3 (c) “Electrical corporation” does not include a  
4 corporation or person employing landfill gas technology  
5 ~~or digester gas technology~~ for the generation of  
6 electricity for any one or more of the following purposes:

7 (1) Its own use or the use of not more than two of its  
8 tenants located on the real property on which the  
9 electricity is generated.

10 (2) The use of or sale to not more than two other  
11 corporations or persons solely for use on the real property  
12 on which the electricity is generated.

13 (3) Sale or transmission to an electrical corporation or  
14 state or local public agency.

15 (d) *“Electrical corporation” does not include a*  
16 *corporation or person employing digester gas technology*  
17 *for the generation of electricity for any one or more of the*  
18 *following purposes:*

19 *(1) Its own use or the use of not more than two of its*  
20 *tenants located on the real property on which the*  
21 *electricity is generated.*

22 *(2) The use of or sale to not more than two other*  
23 *corporations or persons solely for use on the real property*  
24 *on which the electricity is generated.*

25 *(3) Sale or transmission to an electrical corporation or*  
26 *state or local public agency, provided, however, that the*  
27 *sale or transmission of the electricity service to a retail*  
28 *customer shall only be provided through the transmission*  
29 *system of the existing local publicly owned electric utility*  
30 *or electrical corporation of that retail customer.*

31 (e) The amendments made to this section at the 1987  
32 portion of the 1987–88 Regular Session of the Legislature  
33 do not apply to any corporation or person employing  
34 cogeneration technology or producing power from other  
35 than a conventional power source for the generation of  
36 electricity that physically produced electricity prior to  
37 January 1, 1989, and furnished that electricity to

1 immediately adjacent real property for use thereon prior  
2 to January 1, 1989.

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