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**AB-36 Eligible fuel cell electrical generating facilities: energy metering.** (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 36**

**Introduced by Assembly Member Nazarian**  
**(Principal coauthor: Assembly Member Dababneh)**  
**(Coauthors: Assembly Members Bocanegra, Low, Levine, Mullin, Quirk, and Ridley-Thomas)**

**December 05, 2016**

An act to amend Section 2827.10 of the Public Utilities Code, relating to electricity.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 36, Nazarian. Eligible fuel cell electrical generating facilities: energy metering.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law establishes a specified energy metering program that is available to an eligible fuel cell customer-generator, as defined. A fuel cell electrical generating facility is eligible for the program if it has a capacity of not more than 5 megawatts. Existing law requires that an electrical corporation file with the commission a standard tariff providing for this energy metering for eligible fuel cell customer-generators and make the tariff available to eligible fuel cell customer-generators upon request, on a first-come-first-served basis, until the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff reaches a specified level. Existing law provides that a fuel cell electrical generating facility is not eligible for the tariff unless it commences operation on or before December 31, 2021.

This bill would change “eligible fuel cell electrical generating facility” to “eligible electrical generating facility” and would additionally make eligible a facility that electromechanically converts fuel to electricity for purposes of the above-described energy metering program. The bill would make conforming and nonsubstantive changes.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the program that is expanded under the provisions of this bill would be implemented through a decision or order of the commission, a violation of these provisions would impose a state-mandated local program by expanding the application of a crime.

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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 2827.10 of the Public Utilities Code is amended to read:

**2827.10.** (a) As used in this section, the following terms have the following meanings:

(1) "Eligible electrical generating facility" means a facility that includes the following:

- (A) Integrated powerplant systems used to electromechanically or electrochemically convert fuel to electricity.
- (B) An inverter and fuel processing system where necessary.
- (C) Other plant equipment, including heat recovery equipment, necessary to support the plant's operation or its energy conversion.

(2) (A) "Eligible customer-generator" means a customer of an electrical corporation that meets all the following criteria:

(i) Uses an eligible electrical generating facility with a generating capacity of not more than five megawatts that is located on or adjacent to the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electrical grid while the grid is operational or in a grid independent mode when the grid is nonoperational, and is sized to offset part or all of the eligible customer-generator's own electrical requirements.

(ii) Is the recipient of local, state, or federal funds, or who self-finances projects designed to encourage the development of eligible electrical generating facilities.

(iii) Uses technology the commission has determined will achieve reductions in emissions of greenhouse gases pursuant to subdivision (b).

(B) Complies with the emissions standards adopted by the State Air Resources Board pursuant to the distributed generation certification program requirements of Section 94203 of Title 17 of the California Code of Regulations, or any successor regulation.

(C) For purposes of this paragraph, a person or entity is a customer of the electrical corporation if the customer is physically located within the service territory of the electrical corporation and receives bundled service, distribution service, or transmission service from the electrical corporation.

(3) "Net energy metering" means measuring the difference between the electricity supplied through the electrical grid and the difference between the electricity generated by an eligible electrical generating facility and fed back to the electrical grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a time-of-use meter capable of registering the flow of electricity in two directions. If the existing electrical meter of an eligible customer-generator is not capable of measuring the flow of electricity in two directions, the eligible customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a time-of-use meter.

(b) (1) Not later than March 31, 2017, the State Air Resources Board, in consultation with the Energy Commission, shall establish a schedule of annual greenhouse gas emissions reduction standards for an eligible electrical generation resource for purposes of clause (iii) of subparagraph (A) of paragraph (3) of subdivision (a) and shall update the schedule every three years with applicable standards for each intervening year.

(2) The greenhouse gas emissions reduction standards shall ensure that each eligible electrical generation resource, for purposes of clause (iii) of subparagraph (A) of paragraph (3) of subdivision (a), reduces greenhouse gas emissions compared to the electrical grid resources, including renewable resources, that the electrical generation resource displaces, accounting for both procurement and operation of the electrical grid.

(c) (1) Every electrical corporation, not later than March 1, 2004, shall file with the commission a standard tariff providing for net energy metering for eligible customer-generators, consistent with this section. Subject to the limitation in subdivision (g), every electrical corporation shall make this tariff available to eligible customer-generators upon request, on a first-come-first-served basis, until the total cumulative rated generating capacity of the eligible electrical generating facilities receiving service pursuant to the tariff, in addition to the installed capacity as of January 1, 2017, reaches a level equal to its proportionate share of a statewide limitation of 500 megawatts cumulative rated generation capacity served under this section. The proportionate share shall be calculated based on the ratio of the electrical corporation's peak demand compared to the total statewide peak demand.

(2) To continue the growth of the market for onsite electrical generation, the commission may review and incrementally raise the limitation established in paragraph (1) on the total cumulative rated generating capacity of the eligible electrical generating facilities receiving service pursuant to the tariff in paragraph (1).

(d) In determining the eligibility for the cumulative rated generating capacity within an electrical corporation's service territory, preference shall be given to facilities that, at the time of installation, are located in a community with significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities of minority populations or low-income populations, or both, based on the ambient air quality standards established pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code.

(e) (1) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the customer would be assigned if the customer was not an eligible customer-generator. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible customer-generator's costs beyond those of other customers in the rate class to which the eligible customer-generator would otherwise be assigned are contrary to the intent of the Legislature in enacting this section, and shall not form a part of net energy metering tariffs.

(2) The commission shall authorize an electrical corporation to charge an eligible customer-generator a fee based on the cost to the utility associated with providing interconnection inspection services for that eligible customer-generator.

(f) The net metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electrical grid over a 12-month period. The following rules shall apply to the annualized metering calculation:

(1) The eligible customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible electrical generating facility with an electrical corporation, and at each anniversary date thereafter, be billed for electricity used during that period. The electrical corporation shall determine if the eligible customer-generator was a net consumer or a net producer of electricity during that period. For purposes of determining if the eligible customer-generator was a net consumer or a net producer of electricity during that period, the electrical corporation shall aggregate the electrical load of the meters located on the property where the eligible electrical generating facility is located and on all property adjacent or contiguous to the property on which the facility is located, if those properties are solely owned, leased, or rented by the eligible customer-generator. Each aggregated account shall be billed and measured according to a time-of-use rate schedule.

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

(A) The generation charges for any net monthly consumption of electricity shall be calculated according to the terms of the tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. When the eligible customer-generator is a net generator during any discrete time-of-use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electrical corporation would charge for retail kilowatthour sales for generation, exclusive of any surcharges, during that same time-of-use period. If the eligible customer-generator's time-of-use electrical meter is unable to measure the flow of electricity in two directions, paragraph (4) of subdivision (a) shall apply. All other charges, other than generation charges, shall be calculated in accordance with the eligible customer-generator's applicable tariff and based on the total kilowatthours delivered by the electrical corporation to the eligible customer-generator. To the extent that charges for transmission and distribution services are recovered through demand charges in any particular month, no standby reservation charges shall apply in that monthly billing cycle.

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

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electrical corporation during that same period, the eligible customer-generator is

a net electricity producer and the electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours.

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

(g) An electrical generating facility shall not be eligible for the tariff unless it commences operation on or before December 31, 2021, unless a later enacted statute, that is chaptered on or before December 31, 2021, extends this eligibility commencement date. The tariff shall remain in effect for an eligible electrical generating facility that commences operation pursuant to the tariff on or before December 31, 2021. A customer-generator shall be eligible for the tariff established pursuant to this section only for the operating life of the eligible electrical generating facility.

**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.