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AB-797 Solar thermal systems. (2017-2018)

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Assembly Bill No. 797

CHAPTER 473

An act to amend Sections 2861, 2863, 2864, 2865, 2866, 2867, and 2867.3 of, to amend the heading of Article 2 (commencing with Section 2860) of Chapter 9 of Part 2 of Division 1 of, to amend and renumber Section 2862 of, to repeal Sections 2860 and 2867.2 of, and to repeal and add Section 2867.4 of, the Public Utilities Code, relating to energy.

[Approved by Governor October 04, 2017. Filed with Secretary of State October 04, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 797, Irwin. Solar thermal systems.

The Solar Water Heating and Efficiency Act of 2007, until August 1, 2018, requires the Public Utilities Commission, if it determines that a solar water heating program is cost effective for ratepayers and in the public interest, to implement a program to promote the installation of 200,000 solar water heating systems in homes, businesses, and buildings or facilities of eligible customer classes receiving natural gas service throughout the state by 2017. The act establishes the maximum funding for the program, for the collective service territories of all gas corporations, at \$250,000,000. The act requires the governing body of each publicly owned utility providing gas service to retail end-use customers to adopt, implement, and finance a solar water heating system incentive program to encourage the installation of 200,000 solar water heating systems by 2017.

This bill would revise the program to, among other things, promote the installation of solar thermal systems throughout the state, reserve 50% of the total program budget for the installation of solar thermal systems in low-income residential housing or in buildings in disadvantaged communities, expand the program to homeowners that lack access to natural gas and rely on propane or wood burning to fulfill their space heating, water heating, and cooking needs who are being considered to receive natural gas and who reside in the San Joaquin Valley communities identified by the commission, authorize the commission to limit program eligibility based on income levels, require an assessment of the entire program through July 31, 2019, to be completed by December 31, 2019, to determine both the cost-effectiveness of the program and the program's effectiveness in achieving program goals, and extend operation of the program through July 31, 2020. Because a violation of any order, decision, rule, direction, demand, or requirement of the commission implementing these revisions would be a crime, this bill would impose a state-mandated local program. The bill would also require the governing body of each local publicly owned utility providing gas service, until August 1, 2020, to adopt, implement, and finance a solar thermal system incentive program. Because the bill would extend the obligations of a local publicly owned utility to adopt, implement, and finance the program, this bill would impose a state-mandated local program.

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 specified reasons.

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

SECTION 1. The heading of Article 2 (commencing with Section 2860) of Chapter 9 of Part 2 of Division 1 of the Public Utilities Code is amended to read:

Article 2. Solar Thermal Systems

SEC. 2. Section 2860 of the Public Utilities Code is repealed.

SEC. 3. Section 2861 of the Public Utilities Code is amended to read:

2861. As used in this article, the following terms have the following meanings:

(a) "Disadvantaged community" means a community identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.

(b) "Gas customer" includes both "core" and "noncore" customers, as those terms are used in Chapter 2.2 (commencing with Section 328) of Part 1, that receive retail end-use gas service within the service territory of a gas corporation.

(c) "kWth" or "kilowatts thermal" means the unit of measure of the equivalent thermal capacity of a solar thermal system that is calculated by multiplying the aperture area of the solar collector area of the system, expressed in square meters, by a conversion factor of 0.7.

(d) "kWthh" means kilowatthours thermal as measured by the number of kilowatts thermal generated, or displaced, in an hour.

(e) "Low-income residential housing" means either of the following:

(1) Residential housing financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, and for which the rents of the occupants who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(2) A residential complex in which at least 20 percent of the total units are rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the housing units targeted for lower income households are already, at the time of the funding commitment pursuant to this article, subject to a deed restriction or affordability covenant with a public entity that ensures that the units will be available at an affordable housing cost meeting the requirements of Section 50052.5 of the Health and Safety Code, or at an affordable rent meeting the requirements of Section 50053 of the Health and Safety Code.

(f) "New Solar Homes Partnership" means the 10-year program, administered by the Energy Commission, encouraging solar energy systems in new home construction.

(g) "Solar heating collector" means a device that is used to collect or capture heat from the sun and that is generally, but need not be, located on a roof.

(h) "Solar thermal system" means a solar energy device that reduces demand for natural gas through water heating, space heating or cooling, or other methods of capturing heat energy from the sun to reduce natural gas consumption in a home, business, or any building or facility receiving natural gas that is subject to the surcharge established pursuant to paragraph (2) of subdivision (b) of Section 2863, or exempt from the surcharge pursuant to paragraph (4) of subdivision (b) of Section 2863, and that meets or exceeds the eligibility criteria established pursuant to Section 2864. "Solar thermal systems" include multifamily residential, industrial, agricultural, governmental, educational, and nonprofit solar pool heating systems, but do not include single-family residential solar pool heating systems.

SEC. 4. Section 2862 of the Public Utilities Code is amended and renumbered to read:

2860. (a) The Legislature finds and declares all of the following:

(1) California is heavily dependent on natural gas.

(2) California's growing population and economy will put a strain on energy supplies and threaten the ability of the state to meet its global warming goals unless specific steps are taken to reduce demand and generate energy cleanly and efficiently.

(3) Water heating for domestic and industrial use relies almost entirely on natural gas and accounts for a significant percentage of the state's natural gas consumption.

(4) Solar thermal systems represent the major untapped natural gas saving potential in California.

(5) In addition to financial and energy savings, solar water heating systems can help protect against future gas and electricity shortages and reduce our dependence on foreign sources of energy.

(6) Solar thermal systems can also help preserve the environment and protect public health by reducing air pollution, including carbon dioxide, a leading global warming gas, and nitrogen oxide, a precursor to smog.

(7) Growing demand for these technologies will create jobs in California as well as promote greater energy independence, protect consumers from rising energy costs, and result in cleaner air.

(8) Installing solar thermal systems in disadvantaged communities can provide local economic benefits while advancing the state's clean energy goals and policies to reduce the emissions of greenhouse gases.

(9) It is in the interest of the State of California to promote solar thermal systems and other technologies that directly reduce demand for natural gas in homes and businesses.

(b) It is the intent of the Legislature to build a mainstream market for solar thermal systems that directly reduces demand for natural gas in homes, businesses, schools, industrial, agricultural, and government buildings, and buildings occupied by nonprofit organizations.

(c) It is the intent of the Legislature that the solar thermal system incentives created by this article should be a cost-effective investment by gas customers.

(d) It is the intent of the Legislature that this article will encourage the cost-effective deployment of solar thermal systems in residential, commercial, industrial, and agricultural markets and in each end-use application sector in a balanced manner. It is the intent of the Legislature that the commission monitor and adjust incentives made available pursuant to this article so that they are cost-effective investments sufficient to significantly increase markets and promote market transformation. It is the additional intent of the Legislature that the commission ensure that increased, uniform growth in each market sector is achieved through program incentives or structure adjustments that prevent overutilization of program resources by any single sector.

SEC. 5. Section 2863 of the Public Utilities Code is amended to read:

2863. (a) (1) The commission shall implement changes to the program as authorized pursuant to this section as it read on December 31, 2017, applicable to the service territories of a gas corporation to promote the installation of solar thermal systems in homes, businesses, and buildings or facilities of eligible customer classes receiving natural gas service throughout the state. Eligible customer classes shall include single-family and multifamily residential, commercial, industrial, agricultural, governmental, nonprofit, and primary, secondary, and postsecondary educational customers.

(A) The commission shall expand the program to homeowners that lack access to natural gas and rely on propane or wood burning to fulfill their space heating, water heating, and cooking needs who are being considered to receive natural gas and who reside in the San Joaquin Valley communities identified by the commission pursuant to paragraph (1) of subdivision (a) of Section 783.5.

(B) The commission may limit program eligibility based on income levels for residential applicants in order to achieve program goals.

(C) The commission shall implement program changes in phases, if necessary, to enable seamless continuation of the availability of rebates, and the administration and promotion of the program, as of January 1, 2018.

(2) The program shall be administered by gas corporations or third-party administrators, as determined by the commission, and subject to the supervision of the commission.

(3) The commission shall coordinate the program with the Energy Commission's programs and initiatives, including, but not limited to, the New Solar Homes Partnership, to achieve the goal of building zero-energy homes.

(4) The commission shall perform an assessment of the entire program through July 31, 2019, to be completed by no later than December 31, 2019, to determine both the cost-effectiveness of the program and the program's effectiveness in achieving program goals.

(b) (1) The commission shall fund the program through the use of a surcharge applied to gas customers based upon the amount of natural gas consumed. The surcharge shall be in addition to any other charges for natural gas sold or transported for consumption in this state.

(2) Funding for the program established by this article shall not, for the collective service territories of all gas corporations, exceed two hundred fifty million dollars (\$250,000,000) over the course of the program to July 31, 2020.

(3) Fifty percent of the total program budget shall be reserved for the installation of solar thermal systems in low-income residential housing or in buildings in disadvantaged communities. The commission may revise the percentage if the budget for other types of customers becomes depleted.

(4) Ten percent of the total program budget shall be reserved for the installation of solar thermal systems for industrial applications. The commission may revise the percentage if the budget for other types of customers becomes depleted.

(5) The commission shall annually establish a surcharge rate for each class of gas customers. Any gas customer participating in the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) programs shall be exempt from paying any surcharge imposed to fund the program designed and implemented pursuant to this article.

(6) Any surcharge imposed to fund the program designed and implemented pursuant to this article shall not be imposed upon the portion of any gas customer's procurement of natural gas that is used or employed for a purpose that Section 896 excludes from being categorized as the consumption of natural gas.

(7) The gas corporation or other person or entity providing revenue cycle services, as defined in Section 328.1, shall be responsible for collecting the surcharge.

(c) Funds shall be allocated in the form of customer rebates to promote utilization of solar thermal systems.

(d) In designing and implementing the program required by this article, no moneys shall be diverted from any existing programs for low-income ratepayers or cost-effective energy efficiency programs.

SEC. 6. Section 2864 of the Public Utilities Code is amended to read:

2864. (a) The commission, in consultation with the Energy Commission and interested members of the public, shall establish eligibility criteria for solar thermal systems receiving gas customer funded incentives pursuant to this article. The criteria should specify and include all of the following:

(1) Design, installation, and energy output or displacement standards. To be eligible for rebate funding, a residential solar thermal system shall be certified by an accredited listing agency in accordance with standards adopted by the commission. Solar collectors used in systems for multifamily residential, commercial, government, nonprofit, educational, agricultural, or industrial applications shall be certified by an accredited listing agency in accordance with standards adopted by the commission. Energy output of collectors and systems shall be determined in accordance with procedures set forth by the listing agency, and shall be based on testing results from accredited testing laboratories.

(2) A requirement that solar thermal system components are new and unused, and have not previously been placed in service in any other location or for any other application.

(3) A requirement that solar thermal collectors have a warranty of not less than 10 years to protect against defects and undue degradation.

(4) A requirement that solar thermal systems are in buildings or facilities connected to a natural gas utility's distribution system within the state.

(5) (A) A requirement that solar thermal systems have meters or other kWhth measuring devices in place to monitor and measure the system's performance and the quantity of energy generated or displaced by the system.

(B) The commission shall exempt from this requirement system types for which the cost of monitoring a system is likely to exceed 2 percent of the system cost. After a public stakeholder process, the commission may adjust this percentage to ensure reasonable balance between customer cost and value received, taking into account factors including, but not limited to, customer class, system type, system size, or changes in the market.

(6) A requirement that solar thermal systems are installed in conformity with the manufacturer's specifications and all applicable codes and standards.

(7) A requirement that, when the property is not owner-occupied, the tenant shall not contract for the installation of a solar thermal system. The tenant may request that the owner participate in such a program.

(b) Gas customer funded incentives shall not be made for a solar thermal system that does not meet the eligibility criteria.

(c) The commission may adopt consensus solar standards applicable to products or systems as developed by accredited standards developers.

SEC. 7. Section 2865 of the Public Utilities Code is amended to read:

2865. (a) The commission shall establish conditions on gas customer funded incentives pursuant to this article. The conditions shall require both of the following:

(1) Appropriate siting and high-quality installation of the solar thermal system based on installation guidelines that maximize the performance of the system and prevent qualified systems from being inefficiently or inappropriately installed. The conditions shall not impact housing designs or densities presently authorized by a city, county, or city and county. The goal of this paragraph is to achieve efficient installation of solar thermal systems and promote the greatest energy production or displacement per gas customer dollar.

(2) Appropriate energy efficiency improvements in the new or existing home or facility where the solar thermal system is installed.

(b) The commission shall set rating standards for equipment, components, and systems to ensure reasonable performance and shall develop procedures that provide for compliance with the minimum ratings.

SEC. 8. Section 2866 of the Public Utilities Code is amended to read:

2866. (a) The commission may establish a grant program or a revolving loan or loan guarantee program for low-income residential housing consistent with the requirements of Chapter 5.3 (commencing with Section 25425) of Division 15 of the Public Resources Code. Notwithstanding Section 2867.4, all loans outstanding as of August 1, 2020, shall continue to be repaid in a manner that is consistent with the terms and conditions of the program adopted and implemented by the commission pursuant to this subdivision, until repaid in full.

(b) The commission may extend eligibility for funding pursuant to this section to include residential housing occupied by ratepayers participating in a commission approved and supervised gas corporation Low-Income Energy Efficiency (LIEE) program and who either:

(1) Occupy a single-family home.

(2) Occupy at least 50 percent of all units in a multifamily dwelling structure.

(c) The commission shall ensure that lower income households, as defined in Section 50079.5 of the Health and Safety Code, and, if the commission expands the program pursuant to subdivision (b), ratepayers participating in a LIEE program, that receive gas service at residential housing with a solar thermal system receiving incentives pursuant to subdivision (a) benefit from the installation of the solar thermal systems through reduced or lowered energy costs.

(d) The commission shall do all of the following to implement the requirements of this section:

(1) Maximize incentives to properties that are committed to continuously serving the needs of lower income households, as defined in Section 50079.5 of the Health and Safety Code, and, if the commission expands the program pursuant to subdivision (b), ratepayers participating in a LIEE program.

(2) Establish conditions on the installation of solar thermal systems that ensure properties on which solar thermal systems are installed under subdivision (a) remain low-income residential properties for at least 10 years from the time of installation, including property ownership restrictions and income rental protections, and appropriate enforcement of these conditions.

SEC. 9. Section 2867 of the Public Utilities Code is amended to read:

2867. (a) Consistent with subdivision (c) of Section 2863, the commission shall consider reductions over time in rebates provided through the program. The rebates shall be structured so as to drive down the cost of the solar thermal technologies, and be paid out on a performance-based incentive basis so that incentives are earned based on the actual energy savings, or on predicted energy savings as established by the commission.

(b) The commission shall consider federal tax credits and other incentives available for this technology when determining the appropriate rebate amount.

(c) The commission shall consider the impact of rebates for solar thermal systems pursuant to this article on existing incentive programs for energy efficiency technology.

(d) In coordination with the commission, the Energy Commission shall consider, when appropriate, coupling rebates for solar thermal systems with complementary energy efficiency technologies, including, but not limited to, efficient hot water heating tanks

and tankless or on demand hot water systems that can be installed in addition to the solar thermal system.

(e) The commission may consider adjustments to the rebate levels within the service territory of a gas corporation to address gas shortages or similar gas supply constraints, as determined by the commission.

SEC. 10. Section 2867.2 of the Public Utilities Code is repealed.

SEC. 11. Section 2867.3 of the Public Utilities Code is amended to read:

2867.3. The governing body of each local publicly owned utility providing gas service to retail end-use gas customers shall, after a public proceeding, adopt, implement, and finance a solar thermal system incentive program that does all the following:

(a) Ensures that any solar thermal system receiving monetary incentives complies with eligibility criteria adopted by the governing body. The eligibility criteria shall include those elements contained in paragraphs (1) to (7), inclusive, of subdivision (a) of Section 2864.

(b) Includes minimum ratings and standards for equipment, components, and systems to ensure reasonable performance and compliance with the minimum ratings and standards.

(c) Includes an element that addresses the installation of solar thermal systems on low-income residential housing. If deemed appropriate in consultation with the California Tax Credit Allocation Committee, the governing board may establish a grant program or a revolving loan or loan guarantee program for low-income residential housing consistent with the requirements of Chapter 5.3 (commencing with Section 25425) of Division 15 of the Public Resources Code.

SEC. 12. Section 2867.4 of the Public Utilities Code is repealed.

SEC. 13. Section 2867.4 is added to the Public Utilities Code, to read:

2867.4. This article shall become inoperative on August 1, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because 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.