BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 10-05-004 (Filed May 6, 2010)

APPLICATION FOR REHEARING BY THE UTILITY REFORM NETWORK OF DECISION 12-05-036 REINTERPRETING SECTION 2827(c)(1)

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June 29, 2012

APPLICATION FOR REHEARING BY THE UTILITY REFORM NETWORK OF DECISION 12-05-036 REINTERPRETING SECTION 2827(c)(1)

Pursuant to Rule 16.1 of the Commission's Rules of Practice and Procedure, the Utility Reform Network ("TURN") respectfully submits this application for rehearing of Decision 12-05-036 ("the Decision"), issued on May 30, 2012.

The Decision erroneously reinterprets § 2827(c)(1)[1] and thus fundamentally changes the method that has been used for the past fifteen years, since the passage of AB 1755 in 1998, to calculate the cap on total customer generation capacity eligible for the net energy metering ("NEM") tariff. The change in methodology for calculating the "NEM cap" dramatically expands the number of customers eligible for net energy metering and increases costs to ratepayers who subsidize NEM customers. The Decision uses principles of statutory construction to reinterpret ambiguous statutory language, but completely ignores relevant legislative history. The legislative history of AB 1755 and subsequent legislation amending the NEM provisions shows that the Legislature did not intend to change the NEM cap methodology when it adopted AB 1755. The Commission should reverse D.12-05-036 and allow rehearing to adopt a uniform method of calculating the coincident peak demand in each utility's service area.

[1] All code references are to the Public Utilities Code unless otherwise indicated.

1 Legal Issue Presented and Rules of Statutory Interpretation

1.1 The Legal Issue Presented is the Interpretation of the Term "Aggregate Customer Peak Demand" in Section 2827(c)(1) of the Public Utilities Code

Utilities are statutorily obligated to allow a customer-generator to be placed on a net energy metering ("NEM") tariff until the total amount of rated generating capacity provided by these customer-generators reaches the statutory NEM cap. That cap is defined in Section 2827(c)(1) of the Public Utilities Code as a percentage (currently 5%) of the "electric utility's aggregate customer peak demand." The "peak demand" factor is the multiplier in the cap calculation, though it is also often referred to as the "denominator" in the cap calculation.[2]

When the NEM program was originally established in 1995 pursuant to SB 656, the NEM cap was defined as a percentage of "the utility's peak electricity demand forecast for 1996," resulting in a number that reflected the coincident peak demand in each utility's service area.[3] At the time, all electricity sales were provided by regulated utilities.

Electric deregulation, adopted in 1996 based on the passage of AB 1890, allowed customers to procure electricity from independent "electric service providers." In 1998 the Legislature also passed AB 1755, which required electric service providers likewise to make available a net energy metering tariff. AB 1755 modified the language of §

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[2] The cap can be numerically represented as: (Total allowed customer-generator capacity) = 5% * (peak demand factor), with the peak demand figure as the multiplier. Often this equation is represented as: 5% = (customer-generator capacity)/(peak demand), so that the peak demand figure is termed the "denominator" in the cap calculation. See, D.12-05-036, p. 2.

[3] The "coincident peak demand" is the sum of all customers demand in the one hour of the year during which the utility's system registers the highest hourly electricity demand.

2827(c)(1) to define the NEM cap as a percentage of "the electric service provider's aggregate customer peak demand." The phrase "aggregate customer peak demand was maintained through several amendments of the statute and until AB 3048 (Stats. 2008, c. 558) replaced the term "electric service provider's" with the term "utility's."

The relevant issue presented to the Commission is the proper interpretation of the phrase "aggregate customer peak demand" as used in the NEM cap calculation. Rather than continuing to use the coincident peak demand number, the Decision determines that the phrase represents the sum of all non-coincident peak demands in a utility's service territory.[4]

1.2 The Decision Relies on Applicable Rules of Statutory Construction

The fundamental goal of statutory interpretation is to determine the intent of the Legislature.[5] Proper statutory construction is governed by certain well-established principles. The first step is to determine the plain meaning of the statutory language. The textual analysis of the plain meaning of statutory language is guided by the various canons of statutory construction.

The Decision approvingly identifies three principles of statutory construction utilized by the Joint NEM Parties.[6] These principles are (1) that the Legislature generally intends a substantive change when it modifies statutory language with new terminology,

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[4] The "non-coincident peak demand" is the highest hourly demand of a customer during the year, irrespective of the hour in which it occurs.
[5] *Day v. City of Fontana* (2001) 25 Cal. 4th 268, 272; *People v. Peters* (1991) 52 Cal. 3d 894, 898. See, generally, OIR 05-06-040, *mimeo.* at 3-4 (summarizing goal of statutory interpretation in order to determine "legislative intent").
[6] The "Joint NEM Parties" include the Interstate Renewable Energy Council, the Vote Solar Initiative, the California Solar Energy Industries Association, the Solar Energy Industries Association and the Sierra Club.

(2) that the Legislature generally avoids the use of inconsistent terminology in order to prevent confusion, and (3) that words should be given meaning if possible so as to avoid unnecessary surplusage.[7] The Decision reaches its legal conclusion largely based on the use of these three principles.

While TURN agrees that these are three valid principles of statutory construction, we note that there are other pertinent canons of statutory construction, including:

- A statute should be read as a harmonious whole, with its separate parts being interpreted within their broader statutory context in a manner that furthers statutory purpose.
- All words of a statute be given effect if possible.
- A term used more than once in a statute should ordinarily be given the same meaning throughout.
- Specific statutory language ordinarily trumps conflicting general language.[8]

1.3 The Decision Purports to Use Statutory Construction to Interpret Language, but Then Concludes That the Language is Ambiguous

The Decision asserts that "statutory interpretation should begin with an examination of the statutory language itself."[9] Thus, the Decision purports to use principles of statutory construction rather than considering evidence of legislative intent provided in various legislative staff analyses of AB 1755 and related legislation. Using the principles of statutory construction the Decision concludes that:

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[7] D.12-05-036, *mimeo.* at 10.
[8] See, for example, Yule Kim, Congressional Research Service, "Statutory Interpretation: General Principles and Recent Trends," August 31, 2008 (Order Number 97-589).
[9] D.12-05-036, *mimeo.* at 10.

> We find persuasive the Joint NEM Parties' observation that the words "aggregate customer" would constitute surplusage if the Legislature had intended "aggregate customer peak demand" to mean peak demand.[10]

But immediately after interpreting the statutory language based on principles of statutory construction, the Decision agrees that the term "aggregate customer peak demand" is inherently ambiguous "as to whether coincident or non-coincident peak demand should be used as the denominator for purposes of calculating the cap on NEM for the various utilities."[11]

The Commission then voices its agreement with the Joint NEM Parties that "it seems unlikely" that "the Legislature intended the words 'aggregate customer peak demand' to simply mean coincident peak load."[12] The Decision proceeds to interpret Legislative intent by referring to the prior statutory construction and also the goal of the statute:

> We note that § 2827(a) enumerates several goals of the NEM program, including encouraging substantial private investment in renewable energy resources and stimulating in-state economic growth. In light of the NEM program goals and the language of the statute itself, we conclude that the Joint NEM Parties' interpretation of "aggregate customer peak demand" to mean the sum of all customers non-coincident peak demands is reasonable and we hereby adopt it.[13]

TURN fully agrees that the term "aggregate customer peak demand" is inherently ambiguous. This term does not have an ordinary meaning; and it is not a valid term of art. Both coincident and non-coincident peak loads "aggregate" the loads of individual

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[10] D.12-05-036, *mimeo.* at 10-11.
[11] D.12-05-036, *mimeo.* at 11.
[12] D.12-05-036, *mimeo.* at 11.
[13] D.12-05-036, *mimeo.* at 12.

customers. The difference is that non-coincident peak load aggregates individual peak loads from different hours based on the highest usage of an individual customer over the course of the year, while coincident peak load aggregates customer loads during the one hour of the year when the entire system demand peaks.[14] The term "aggregate customer peak demand" is not a term of art in utility operations or ratemaking.

1.4 The Commission Should Look to Extrinsic Evidence of Legislative Intent to Interpret Ambiguous Language

When a Court or reviewing agency cannot clarify the plain meaning of ambiguous language based on the principles of statutory construction, it must then look to other "extrinsic evidence" of Legislative intent.[15] This Commission cogently explained this rule just three months ago in D.12-03-056, in a section of the decision aptly titled "[i]n the case of statutory ambiguity, legislative intent prevails."[16] Unfortunately, the Commission did not attempt to examine the legislative intent of AB 1755, aside from looking at the general statutory goals enumerated in § 2827(a).

The primary evidence of legislative intent is contained in the legislative history of the statute, including the uncodified sections of the statute, the language of prior amendments and the published legislative staff analyses of the various versions of the bill.[17] In this case, the legislative history of AB 1755 provides significant evidence that the words "aggregate customer" were inserted to address changes due to electric

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[14] This is a simplified definition consistent with general usage regarding annual peak load.
[15] See, *California Manufacturers Association v. Public Utilities Commission*, 24 Cal.3d 836, 844; See, also, *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735.
[16] D.12-03-056, *mimeo.* at 9.
[17] See, for example, D.12-03-056, *mimeo.* at 10; D.04-02-057, *mimeo.* at 21; See, also, OIR 05-06-040, *mimeo.* at 3-4 (summarizing statutory interpretation in order to determine "legislative intent").

deregulation. The legislative analyses properly explain the meaning of these words. Moreover, the legislative history demonstrates that the words are not mere "surplusage" even though they were not intended to change the method of calculating the NEM cap, since their purpose was to address the fact that regulated utilities were no longer the only providers of electricity.

2 The Decision Reaches an Illegal Interpretation of Ambiguous Language by Completely Ignoring All Relevant Extrinsic Evidence of Legislative Intent

The Decision's statutory interpretation is legally erroneous because the Decision simply ignores persuasive evidence showing that the Legislature had a completely different and valid reason for inserting the words "aggregate customer" into § 2827(c)(1) that had nothing to do with redefining the method of measuring peak demand. This purpose was evidenced in legislative analyses of both AB 1755 as well as of subsequent legislation modifying § 2827(c)(1). The Decision simply ignores this more specific evidence that must be given greater weight than general language concerning statutory goals.

2.1 The Decision Simply Ignores Relevant Contemporaneous Evidence of Legislative Intent to Address Electric Deregulation, *Not* to Change the NEM Cap Calculation

The legislative history of AB 1755 includes sixteen analyses provided for various assembly and senate committees.[18] Many of the analyses are largely duplicative.

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[18] See, http://www.leginfo.ca.gov/cgi-bin/postquery. Fourteen of the legislative analyses of AB 1755 are included in Appendix A in chronological order. Two were excluded as exact copies.

The majority of the contemporaneous legislative analyses do not even reference the issue of the NEM cap. One of the primary provisions of AB 1755 reinstated certain property tax benefits (exemption from new construction reassessments) for solar installations, and many analyses focus on the fiscal impacts of this provision of AB 1755.[19]

TURN has carefully reviewed each of the analyses and found only three non-duplicative analyses that directly address the NEM cap issue. Before considering in detail those three analyses, it is important to note that several analyses discuss the fact that the other primary goal (aside from reinstating the property tax benefits) of AB 1755 was to "accommodate electricity deregulation."[20] AB 1755 amended the original language to account for the fact that the distribution system now served the load of both bundled IOU customers as well as electric service provider customers.[21] Each ESP served individual customers within the service territory of a distribution utility. Each ESP had their own separate coincident peak load, which was the accumulation of their own customers' coincident peaks.

The language of Section 2827(c)(1) was amended in AB 1755 to require that all electric service providers allow customers to purchase electricity under a NEM tariff until "the total rated generating capacity used by eligible customer-generators equals one-tenth of 1 percent of the *electric service provider's aggregate customer peak demand*." The March 16, 1998 Assembly Committee analysis explained that the bill "would require

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[19] See, for example, the Assembly Floor analysis, August 20, 1998, prepared by Judi Smith.
[20] See, for example, Senate Floor analysis, August 17, 1998.
[21] PD, at 6-7.

every electric service provider to develop a standard contract and make such a contract available to customer-generators ….”The June 8, 1998 Senate Committee analysis commented that the California Solar Energy Industries Association supported the bill because the NEM statute “needs to be updated to reflect changes due to the restructuring of the electric industry and to enhance the effectiveness of net metering.”

Three legislative analysis touch upon how the need to accommodate electric deregulation effects the relevant NEM cap calculation. The April 29, 1998 Assembly Floor analysis explains how the mandate to provide a NEM contract is extended to every electric service provider and further states:

> [AB 1755] Provides that an electric service provider is not obligated to provide net metering to additional customer-generators in its service area when the combined total peak demand of all customer generators in its service area equals one-tenth of 1% of the aggregate customer peak demand of those electric service providers. [22]

This language does not attempt to define the phrase “aggregate customer peak demand.” However, the analysis reflects the added inclusion of all electric service providers in the NEM mandate. There is no mention of any significant change to the method of calculating peak demand, and the “comment” section of this analysis only discusses the property tax impacts of AB 1755.

The June 8, 1998 Senate Committee analysis states:

> This bill alters the cap on net-metered electricity sales. Previously the cap was set at a specific capacity for each utility service area (e.g. 17MW for PG&E). This bill changes that cap to 0.1% of the demand in each utility service area. However, there is a data collection problem in that, 1) demand changes over time, and 2) no provider of electric service knows the demand in the utility service area because electricity sales are made through numerous providers. If no one knows the demand then no one knows the level of the cap.

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[22] Assembly Floor analysis, April 29, 1998, prepared by Judi Smith.

> Further, no entity knows how much net metering is occurring with other sellers. Consequently, no one knows when the cap is met and, therefore, when the obligation to net meter additional customers ends. This concern is not a current problem. The best estimates are that there are roughly 30 net meter customers in the state, which is less than 1% of the current cap. Yet if this net metering program encourages additional net metering, then problems will be inevitable. The author may wish to consider amending the bill to provide for some central repository of this information so that the cap calculations can be made.[23]

The first paragraph directly concerns the peak demand factor (or denominator) in the NEM cap calculation and explains that a cap equal to "0.1% of the demand in each utility service area" results in a number that changes over time. Significantly, the language refers to "the demand in each utility service area," implicitly presuming a continuation of the use of a system peak demand, which is inherently a coincident demand measure. The paragraph also acknowledges that individual ESPs would not be aware of "the demand in the utility service area," thus making calculation of the caps applicable to each provider difficult. The analysis provides a recommendation for solving this problem by creating a repository of relevant data necessary to make the cap calculation.

The primary thrust of both paragraphs in this analysis is the need to address data collection problems. The analysis provides a recommendation for solving this problem by creating a repository of relevant data necessary to make the cap calculation. The analysis does not even hint at some fundamental change in the NEM cap calculation that could dramatically increase potential NEM eligibility.

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[23] AB 1755, Senate Committee analysis, June 8, 1998, prepared by Randy Chinn.

Mr. Chinn expanded the discussion of the NEM cap issue in his subsequent June 23, 1998 Senate Committee analysis prior to the hearing in the Senate Committee on Energy, Utilities and Communications. This analysis added language concerning the calculation of the numerator – "the total amount of generation capacity for the net metered customers." However, the discussion concerning the denominator – "the total demand in the utility service area" –remained largely unchanged. Interestingly, the discussion concerning the peak demand denominator added the word "total" in the first paragraph, thus emphasizing that "no provider of electric service knows the *total demand in the utility service area* because electricity sales are made through numerous providers." The analysis concluded with a recommendation for resolving the data collection issue:

> These problem [*sic*] of calculating the cap can be resolved in either of two ways. The first option is to impose a numerical cap on the amount of capacity which must be net metered (i.e. 90 MW), rather than have the cap vary with changes in demand. This removes the data collection problem in calculating the cap, though it doesn't allow the cap to rise as *overall* electricity demand increases. The second option is to create a central repository of this information so that the cap calculations can be made. The CPUC is a logical choice given that all sellers of electricity already have a relationship with them through the registration process. The Energy Commission or the ISO are alternatives.[24]

In summary, the legislative history of AB 1755 indicates that the words "aggregate customer" were added in 1998 not to institute a dramatic change from using the "utility's peak demand" in the NEM cap calculation. Rather, this phrase was inserted to ensure a NEM cap calculation for every electric service provider. Use of the phrase "aggregate customer" was perhaps not the most artful expression, and has thus created

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[24] AB 1755, Senate Committee analysis, June 23, 1998 (emphasis added).

problems of ambiguity. However, it was perhaps one of the less inartful elements of electric deregulation, since the Legislature has approvingly modified the NEM statute a number of times since 1998 without disturbing words that have been consistently interpreted as representing the coincident peak load in the utility service area. This is a much better record than faced by most other provisions of electric deregulation.

2.2 The Decision Ignores Subsequent Legislative History that Confirms the Legislature Understand the NEM Cap Was Based on Coincident Peak Demand

The overall cap set by AB 1755 in § 2827(c)(3) limited the availability of NEM when the "combined total peak demand of all customer-generators served by all the electric service providers in that service area" exceeded the cap, based on the "aggregate customer peak demand of those electric service providers." The same language was repeated in various bills until AB 3048 (Stats.2008, c. 558) replaced the term "electric service provider's" with the term "utility's" to modify "aggregate customer peak demand."

Decision 12-05-036 acknowledges that various bill analyses over the years have referred to the relevant language concerning the NEM cap using terms such as "utility peak demand," "total peak load," "aggregate peak demand" and "each seller's peak demand."[25] The Decision does not dispute that in no case did the legislature ever mention "non-coincident peak demand."

For example, the Senate Committee analysis of SB 816, which was enacted in 2005 and changed the NEM cap for SDG&E, stated that existing law "requires EPSs to offer net metering until net metering customers account for one-half of one percent

[25] D.12-05-036, *mimeo.* p. 7.

(0.5%) of the ESPs aggregate peak demand," and then further states that AB 58 amended the cap to be "0.5% of utility peak demand."[26]

Likewise, the Senate Floor analysis of AB 489, which was enacted in October 2011 and changed certain eligibility rules, notes that AB 489 "retains the total capacity cap for net metering at 5% of the "utility's aggregate peak demand."[27]

This Commission submitted a report to the Legislature, dated March 29, 2005, which provided a graph of utility solar customer-generator load, as compared to the NEM cap.[28] The numbers in this NEM Report used coincident peak demand as the measure of the NEM cap. Indeed, such a number makes sense in light of the explanation in the 2005 NEM Report that "the net metering cap was adopted and retained due to the unknown impacts of increased customer-owned generation on the grid."[29] The impacts of increased solar generation upon the grid depends on the amount of solar compared to coincident peak demand. There is no operational meaning of comparing distributed generation capacity to a sum of all non-coincident peak loads.

Some of the legislative analyses discussed above occurred *after* the Commission had submitted its 2005 NEM Report. The Legislature amended the *percentage* restriction in the cap without ever changing the other language, knowing that the Commission had calculated the cap using coincident peak demand. Another canon of statutory construction is that the Legislature is presumed to be aware of an administrative interpretation of a

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[26] SB 816, Senate Committee Analysis, April 4, 2005.
[27] AB 489, Senate Floor Analysis, August 30, 2011.
[28] CPUC Energy Division, "Update On Determining The Costs And Benefits Of California's Net Metering Program As Required By Assembly Bill 58," March 29, 2005. Available at http://docs.cpuc.ca.gov/WORD_PDF/REPORT/45133.PDF.
[29] *Id.* at 8.

statute when it re-enacts a statute without change.[30]

The Decision entirely ignores these subsequent legislative analyses and legislative changes that directly address the language in § 2827(c). The fact that the Legislature repeatedly used terms that commonly denote system coincident peak load should be interpreted, based on the rule of statutory construction that the Legislature avoids the use of inconsistent terms, as evidence that the NEM cap is based on coincident peak demand. Likewise, the fact that the Legislature did not change the wording of the statute, given information from the Commission using coincident peak demand calculations, likewise implies Legislative agreement that the cap is based on coincident peak demand.

2.3 Relying on a General Statutory Goal is Insufficient in Light of More Specific Evidence of Legislative Intent

The Decision simply ignores all this evidence of legislative intent specifically connected to AB 1755, and connected to subsequent legislation modifying § 2827(c)(1). Instead, the Decision interprets legislative intent by relying on the goals of the NEM program as articulated in § 2728(a), introduced in the original implementing legislation in 1995. These goals are to encourage "substantial private investment in renewable energy resources and stimulating in-state economic growth."[31] The Decision concludes that "in light of the NEM program goals and the language of the statute itself," it is reasonable to adopt the sum of all non-coincident peak demands as the measure of the NEM cap.[32] The Decision provides no data on the impacts of this change.

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[30] See, for example, *Lorillard v. Pons*, 434 U.S. 575, 580-581 (1978).
[31] D.12-05-036, *mimeo.* at 12.
[32] *Id.*

While it is permissible to look to the goals of a statute as evidence of legislative intent, such general language is less relevant than more specific language present in the legislative history. The Decision ignores evidence from numerous bills and legislative staff analyses that are more specific indications of Legislative intent with respect to the meaning of the words "aggregate customer." The relevant legislative history indicates that the legislature never intended to change the use of coincident system peak demand as the proper measure to use in setting the NEM cap.

3 Conclusion

The Commission has repeatedly stressed in its own decisions that when the plain meaning of a statute is ambiguous, the goal of statutory interpretation is to best ascertain the intent of the legislature. This goal is reached not just by a narrow statutory construction of the language, but also by reference to relevant legislative history. This Commission is well able to conduct such interpretation, as evidenced by several of its decisions addressing other applications for rehearing, including the recent Decision 12-03-056. However, in this case the Commission has completely ignored the legislative history of AB 1755. As a result, it has reached an erroneous interpretation by assuming the words "aggregate customer" would be superfluous, whereas those words were specifically added to address electric deregulation.

The Commission should allow for rehearing of Decision 12-05-036 in order to correct this fundamental legal error.

June 29, 2012

Respectfully submitted,

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APPENDIX A

LEGISLATIVE ANALYSES OF AB 1755 (Stats. 1998, ch. 855)

Date of Hearing: March 16,1998

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Wally Knox, Chairman

AB 1755 (Keeley) - As Amended: March 9, 1998

Majority vote. Fiscal Committee.

SUBJECT : Net Energy Metering - Electricity: Property Tax - Solar Energy.

SUMMARY : Specifically, this bill :

1) Would require every electric service provider to develop a standard contract and make such a contract available to customer-generators in order to encourage private investment in renewable energy resources, stimulate diversification of California's energy resource mix and reduce interconnection and administrative costs for electric service.

2) Defines "eligible customer-generator" as a customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility with a capacity of not more than 10 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

3) Defines "net energy metering" as the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid.

4) Allows the customer to credit any hours generated in excess of hours used against future electricity bills.

5) Reinstates the exclusion from the term "new construction" the construction or addition of an active solar energy system. An active solar energy system may be used for domestic, recreational, therapeutic or service water heating; space conditioning; production of electricity; process heat or solar mechanical energy. This section applies only to lien dates commencing in the 1998-99 fiscal year and no reimbursement of local mandated costs is required because it is implementing a ballot measure.

EXISTING LAW :

1) Proposition 7 was approved by the voters on the November 1980 statewide ballot authorizing the Legislature to provide that active solar energy systems shall be excluded from reassessment as "new construction".

2) Current law provides that "new construction" subjects a property to reassessment for purposes of property taxes. Only

the portion of the property that is newly constructed or added on to the existing structure is reassessed.

3) All of the solar provisions related to the implementation of Proposition 7 were sunseted June 30, 1994.

FISCAL EFFECT : There would be minor losses in local property taxes annually probably in the range of $100,000. This amount would increase by about $100,000 each year.

COMMENT : Once a property changes ownership the solar system would become subject to property tax because the entire property would be subject to reappraisal.

Support

BP Solar
Atlantis Energy, Inc.
Environmental Defense Fund
Environmental Solar Design, Inc..
Price Consulting
The Scholfield Solar Energy Company, Inc.
Sierra Pacific Home & Comfort
Solar Depot
Solar Electrical Systems
Trace Technologies Corporation
Trace Engineering, Arlington, Washington
Redco Products, Santa Monica
Renewable Energy Concepts, Inc., San Luis Obispo
California Solar Energy Industries Association, Sacramento
Sierra Club, California
Clean Power Campaign

Opposition

None on file.

Analysis prepared by : Judi Smith / arevtax / (916) 319-2098

Date of Hearing: April 1, 1998

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Carole Migden, Chairwoman

AB 1755 (Keeley) - As Amended: 3/9/98

Policy Committee: Revenue & Taxation Vote: 10-0 (Consent)

Urgency: No State Mandated Local Program: YesReimbursable: No

SUMMARY

This bill :

1. Similar to current law for every electric utility in the state, requires that every electric service provider (i.e., electric corporation, local publicly owned electric utility, or electrical cooperative) develop a standard contract or tariff and make it available to customer generators (i.e., self-generators who are also customers of the electric service provider), as specified.

2. Makes related modifications to the definitions of "eligible customer-generator" and "net energy metering", and prescribes how net energy metering must be accomplished.

3. Reinstates provisions specifying that "new construction" does not include construction or the addition of any active solar energy system. An active solar energy system is a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy. This provision is applicable to property tax lien dates commencing in the 1998-99 fiscal year.

FISCAL EFFECT

1. The Board of Equalization estimates minor local property tax losses annually in the range of $100,000. The property tax losses to school entities, about $54,000, would be backfilled by the state General Fund.

2. Minor, nonreimbursable costs to counties associated with the reinstatement of the active solar energy system exclusion. These costs are nonreimbursable because the increased duties to local taxing authorities are pursuant to Proposition 7, which

- continued -

originally authorized this exclusion and was approved by voters statewide in the November 1980 election.

BACKGROUND

1. This bill addresses customers who previously relied on traditional power sources for their energy needs, but now obtain electricity from their own solar or wind turbine generating sources. Net energy metering determines the difference between incoming electricity and outgoing generation. The standard contract or tariff establishes terms for which the excess electricity generated by the customer would be sold back to the electric service provider.

2. Proposition 7, approved by the voters statewide in November 1980, authorized the Legislature to provide that active solar energy systems be excluded from reassessment as "new construction." Once a property changes ownership, the solar energy system would become subject to property tax because the entire property would be subject to reappraisal.

ASSEMBLY THIRD READING
AB 1755 (Keeley)
As Amended March 9, 1998
Majority vote

REVENUE AND TAXATION 10-0 APPROPRIATIONS 21-0

Ayes: Knox, Takasugi, Aroner, Cedillo, Kaloogian, Machado, Miller, Ortiz, Papan, Granlund, Poochigian

Ayes: Migden, Ashburn, Ackerman, Aguiar, Baca, Brewer, Cardenas, Escutia, Kuehl, Machado, Martinez, Olberg, Papan, Poochigian, Shelley, Sweeney, Thompson, Thomson, Cedillo, Washington

SUMMARY : Exempts from property taxation the construction or addition of an active solar energy system. In addition, similar to current law, it would require every electric service provider to develop a standard contract or tariff and make it available to customer generators.

Specifically, this bill :

1) Requires every electric service provider to develop a standard contract and make such a contract available to customer-generators in order to encourage private investment in renewable energy resources, stimulate diversification of California's energy resource mix and reduce interconnection and administrative costs for electric service.

2) Defines "eligible customer-generator" as a customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility with a capacity of not more than 10 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

3) Defines "net energy metering" as the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid. Allows the customer to credit any hours generated in excess of hours used against future electricity bills.

4) Reinstates the exclusion from the term "new construction" the construction or addition of an active solar energy system. An active solar energy system may be used for domestic, recreational, therapeutic or service water heating; space conditioning; production of electricity; process heat or solar

mechanical energy. This section applies only to lien dates commencing in the 1998-99 fiscal year and no reimbursement of local mandated costs is required because it is implementing a ballot measure.

EXISTING LAW :

1) Authorizes, under Proposition 7 of 1980, the Legislature to provide that active solar energy systems shall be excluded from reassessment as "new construction."

2) Provides that new construction subjects a property to reassessment for purposes of property taxes. Only the portion of the property that is newly constructed or added on to the existing structure is reassessed.

3) Provides that all of the statutory solar provisions related to the implementation of Proposition 7 were sunseted on June 30, 1994.

FISCAL EFFECT : Minor losses in local property taxes annually probably in the range of $100,000. This amount would increase by about $100,000 each year.

COMMENT : Once a property changes ownership the solar system would become subject to property tax because the entire property would be subject to reappraisal.

Analysis prepared by : Judi Smith / arevtax / (916) 319-2098

Date of Hearing: April 20, 1998

ASSEMBLY COMMITTEE ON UTILITIES AND COMMERCE
Diane Martinez, Chair

AB 1755 (Keeley and Takasugi) - As Amended: March 9, 1998

SUBJECT : Net energy metering: Electricity

SUMMARY : Exempts from property taxation the construction or addition of an active solar energy system and, similar to current law, requires every electric service provider to develop a standard contract or tariff and make it available to customer generators. Specifically, this bill :

1) Requires every electric service provider to develop a standard contract and make such a contract available to customer-generators in order to encourage private investment in renewable energy resources, stimulate diversification of California's energy resource mix and reduce interconnection and administrative costs for electric service.

2) Defines "eligible customer-generator" as a customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility with a capacity of not more than 10 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

3) Defines "net energy metering" as the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid. Allows the customer to credit any hours generated in excess of hours used against future electrcity bills.

4) Reinstates the exclusion from the term "new construction" the construction or addition of an active solar energy system. An active solar energy system may be used for domestic, recreational, therapeutic or service water heating, space conditioning, production of electricity, process heat or solar mechanical energy.

EXISTING LAW :

1) Authorizes, under Propostion 7 of 1980, the Legislature to provide that active solar energy systems shall be excluded from reassessment as "new construction."

2) Provides that new construction subjects a property to reassessment for purposes of property taxes. Only the portion of the property that is newly constructed or added on to the existing structure is reassessed.

3) Provides that all of the statutory solar provisions related to

the implementation of Proposition 7 were sunseted on June 30, 1994.

FISCAL EFFECT : The Board of Equalization estimates minor local property tax losses annually in the range of $100,000. The property tax losses to school entities, about $54,000, would be backfilled by the state General Fund. In addition, there would be minor, nonreimbursable costs to counties associated with the reinstatement of the active solar energy system exclusion. These costs are nonreimbursable because the increased duties to local taxing authorities are pursuant to Proposition 7, which originally authorized this exclusion and was approved by voters statewide in the November, 1980 election.

COMMENTS :

The California Constitution, Article XIII A, Section 2(c)(1), grants the Legislature the authority to exempt "the construction or addition of any active solar energy system from the definition of assessable new construction.

This bill would, in part, re-enact Revenue and Taxation Code 73 to implement the constitutional authorization to exclude active solar energy systems from the definition of new construction. This section has been repealed since June 30, 1994 as a result of a sunset clause. This bill would apply to property tax lien dates commencing with the 1998-99 fiscal year.

REGISTERED SUPPORT / OPPOSITION :

Support

Environmental Defense Fund
Independent Energy Producers
Sierra Club California
Planning and Conservation League
Natural Resources Defense Council
Environmental Defense Fund
Independent Power Producers
Solar Electrical Systems
Horizon Industries Solar Power

Occidental Power
Foresight Energy Company
Atlantis Energy, Inc.
Solar Energy General Contractor
Utility Power Group
Pacific Energy Group
Sun Utility Network, Inc.
Power Light Corporation

Opposition

None received.

Analysis prepared by : Joseph Lyons / auc / (916) 319-2083

ASSEMBLY THIRD READING
AB 1755 (Keeley)
As Amended March 9, 1998
Majority vote

REVENUE AND TAXATION 10-0

Ayes: Knox, Takasugi, Aroner, Cedillo, Kaloogian, Machado, Miller, Ortiz, Papan, Poochigian

UTILITIES AND COMMERCE 12-0

Ayes: Martinez, Campbell, Alby, Baca, Cardenas, Cedillo, Murray, Runner, Thomson, Vincent, Woods, Wright

APPROPRIATIONS 21-0

Ayes: Migden, Ashburn, Ackerman, Aguiar, Baca, Brewer, Cardenas, Escutia, Granlund, Kuehl, Machado, Martinez, Olberg, Papan, Poochigian, Shelley, Sweeney, Thompson, Thomson, Cedillo, Washington

SUMMARY : Requires every electric service provider to make a standard contract available to customer-generators in order to encourage investment in renewable energy resources. Specifically, this bill :

1) Requires every electric service provider to develop a standard contract and make such a contract available to customer-generators in order to encourage private investment in renewable energy resources, stimulate diversification of California's energy resource mix and reduce interconnection and administrative costs for electric service.

2) Defines "eligible customer-generator" as a customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility with a capacity of not more than 10 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

3) Defines "net energy metering" as the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid.

4) Allows the customer to credit any hours generated in excess of hours used against future electricity bills.

5) Reinstates the exclusion from the term "new construction" the construction or addition of an active solar energy system. An active solar energy system may be used for domestic, recreational, therapeutic or service water heating; space conditioning; production of electricity; process heat or solar mechanical energy. This section applies only to lien dates commencing in the 1998-99 fiscal year and no reimbursement of local mandated costs is required because it is implementing a ballot measure.

6) Provides that an electric service provider is not obligated to provide net metering to additional customer-generators in its service area when the combined total peak demand of all customer-generators in its service area equals one-tenth of 1% of the aggregate customer peak demand of those electric service providers.

EXISTING LAW :

1) Authorizes the Legislature, under Proposition 7 of 1980, to provide that active solar energy systems shall be excluded from reassessment as "new construction."

2) Provides that "new construction" subjects a property to reassessment for purposes of property taxes. Only the portion of the property that is newly constructed or added on to the existing structure is reassessed.

FISCAL EFFECT : Minor losses in local property taxes annually probably in the range of $100,000. This amount would increase by about $100,000 each year.

COMMENT : Once a property changes ownership the solar system would become subject to property tax because the entire property would be subject to reappraisal.

All of the solar provisions related to the implementation of Proposition 7 sunset on June 30, 1994.

Analysis prepared by : Judi Smith / arevtax / (916) 319-2098

FN

037937

SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
STEVE PEACE, CHAIRMAN

AB 1755 - Keeley Hearing Date: June 9, 1998 A
As Amended: June 3, 1998 FISCAL B

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DESCRIPTION

Current law requires every electric utility in the state to offer its residential customers the ability to sell electricity generated by a customer's solar electric system back to the utility at the same price as the utility sells electricity. The amount of electricity which must be bought back by the utilities is capped at 0.1% of each utility's peak demand as of 1996.

This bill extends this electricity buy back provision to non-residential customers, and accommodates electricity generated by wind turbines and hybrid solar/wind turbine systems. The bill changes the buy back cap to 0.1% of each sellers' peak demand and further caps the buy back to 0.1% of the demand in each utility's service area. The bill also amends the mechanism by which the customer may take credit for any generated energy.

Current law , as articulated in Article XIIIA of the Constitution, permits the Legislature to exclude the construction or addition of any active solar energy system from the definition of assessable new construction.

This bill utilizes that Constitutional authority and provides for a property tax exemption of the value of solar energy systems installed on or after January 1, 1998

BACKGROUND

In 1995 the Legislature passed SB 656 (Alquist), which required all electric utilities to buy back any electricity generated by a customer-owned solar electric system. This buy-back program is known as "net metering" because the electricity purchases of the customer are netted against the electricity generated by the customer's solar electric system. In other words, when the customer buys electricity the meter spins forward. When the customer generates electricity the meter spins backward. One of the provisions of SB 656 is to cap the amount of electricity the utilities are required to buy back. That cap is 0.1% of each utilities' peak electricity demand for 1996. The net metering requirement encourages the use of solar electric systems because the power generated by the customer is valued the same as the power delivered to the customer by the utility.

Active solar energy systems have previously been excluded from new construction property taxes, though that exemption ended on June 30, 1994. As defined in this bill, active solar energy systems excludes solar swimming pool heaters and hot tub heaters.

COMMENTS

1. This bill is sponsored by the California Solar Energy Industries Association. They support the bill because they believe the net metering statute needs to be updated to reflect changes due to the restructuring of the electric industry and to enhance the effectiveness of net metering.

2. Current law was written in the context of monopoly utility generation. Those days have changed with customers now purchasing power from electric service providers. This bill updates the wording of the statute to reflect this. It does not require non-utility electric service providers to offer their customers a net metering option.

3. This bill alters the cap on net-metered electricity sales. Previously the cap was set at a specific capacity for each utility service area (e.g. 17MW for PG&E). This bill changes that cap to 0.1% of the demand in each utility service area. However, there is a data collection problem in that, 1) demand changes over time, and 2) no provider of electric service knows the demand in the utility service area because electricity sales are made through numerous providers. If no one knows the demand then no one knows the level of the cap.

Further, no entity knows how much net metering is occurring with other sellers. Consequently, no one knows when the cap is met and, therefore, when the obligation to net meter additional customers ends. This concern is not a current problem. The best estimates are that there are roughly 30 net meter customers in the state, which is less than 1% of the current cap. Yet if this net metering program encourages additional net metering, then problems will be inevitable. The author may wish to consider amending the bill to provide for some central repository of this information so that the cap calculations can be made.

4. Current law provides net-metered customers with the option to be billed monthly. This bill provides for annual billing, not monthly billing. Does annual billing leave open the possibility of "sticker shock" in that the customer is faced with a bill for 12 months worth of usage?

5. A staff analysis by the Board of Equalization indicates no likely revenue effect from reinstating the new construction exclusion for active solar energy systems.

6. Once a property changes ownership the active solar energy system would become subject to property tax because the entire property would be subject to reappraisal.

7. Upon successful passage of this committee, this measure will be referred directly to the Senate Committee on Revenue & Taxation.

ASSEMBLY VOTES

Assembly Revenue & Taxation	(10-0)
Assembly Appropriations	(21-0)
Assembly Utilities & Commerce	(12-0)
Assembly Floor	(77-2)

POSITIONS

Support:

American Wind Energy Association
Atlantis Energy, Inc.
Bergey Windpower, Sacramento
BP Solar, Inc., Fairfield
California Solar Energy Industries Association, Sacramento
Energy Efficiency, Orange
Environmental Defense Fund, Oakland
Environmental Solar Design, Inc. North Hollywood
Horizon Industries, Escondido
Independent Power Providers, North Fork
Light Energy Systems, Concord
Natural Resouirces Defense Council, San Francisco
Occidental Power, San Francisco
Off-Line Independent Energy Systems, North Fork
Pacific Energy Group, Walnut Creek
Performance Solar, Escondido
Planning & Conservation League
Power Light, Berkeley
Radco Products, Santa Maria
Real Goods, Ukiah
Renewable Energy Concepts, Inc., San Luis Obispo
Schbolfield Solar Energy Company, Inc., San Buena Ventura
Siemens, Camarillo
Sierra Pacific Home and Comfort, Rancho Cordova
Solar Depot, Sacramento
Solar Depot, San Rafael
Solar Electrical Systems, Westlake
Sun Utility Network, Los Angeles
Trace Technologies, Livermore
Trace Engineering, Arlington, Washington
Western Solar Services, Mission Viejo
WindLite Corporation, Mountain View

Utility Power Group, Chatsworth
2 individuals

Oppose:

None reported to Committee.

Randy Chinn
AB 1755 Analysis
Hearing Date: June 9, 1998

SENATE REVENUE & TAXATION COMMITTEE
Senator Dede Alpert, Chair

AB 1755 - Keeley
Amended: 6/11/98

Hearing: June 17, 1998

Fiscal: YES

SUBJECT: Property Tax: "New construction" does not include active solar energy systems;

Energy: Net energy metering

DIGEST -- WHAT THE BILL DOES

EXISTING LAW (Proposition 13) provides that real property may only be reassessed when it changes ownership or when new construction takes place. In 1980 the Constitution was amended to permit the Legislature to exclude from the definition of new construction "the construction or addition of any active solar system." The Legislature enacted a statute which exempted active solar energy systems from new assessment as new construction. (The effect of this action was to exempt these systems from property taxation.) That statute sunset after the 1993-94 fiscal year.

THIS BILL would reinstate the prior exemption of active solar energy systems from appraisal as new construction. "Active solar energy system" is defined as a system using solar devices to provide for collection, storage or distribution of solar energy for (1) domestic, recreational, therapeutic or service water heating (not including swimming pool or hot tub heaters), (2) space conditioning, (3) production of electricity, (4) process heat, and (5) solar mechanical energy.

The new construction exemption would apply to the total value of the system, to 75% of the value of pipes and ducts used to carry both solar and non-solar energy, and to 75% of the value of dual-use equipment (ducts, pipes, etc., used by both solar energy equipment and auxiliary equipment).

The exemption would apply to qualified systems completed in 1995 and thereafter. However, assessments wouldn't be adjusted retroactively; the change would apply to assessments for the 1999-00 fiscal year and thereafter

The bill would also update the 1995 "net metering" law to accommodate electricity deregulation and to clarify its use with respect to small solar and wind systems. The bill is double-referred to the Energy, Utilities and Communications Committee for review of these provisions.

FISCAL EFFECT:

Board of Equalization believes that there would be virtually no near-term property tax loss as a result of this bill. This is based on the assumptions that (1) no large-scale, centralized solar systems (similar to the systems installed in the Barstow area by Luz International in the late 1980's) are likely to be installed in the foreseeable future; and (2) since active solar systems are not currently cost-beneficial, the construction would not enhance the value of the property and therefore no taxable value would be added to the property.

COMMENTS:

A. Purpose of the bill

The sponsors intend the bill to remove the potentially detrimental effect of property taxation of the installation of small active solar systems. They argue that the

prospect of increased property taxes that might otherwise be levied on homeowners and small businesses installing these systems could render these investments impractical.

B. Prior energy-related bills

The committee has heard three other alternative energy-related bills this session.

SB 116 (Peace), which would have granted an income and corporation tax credit for cost of various energy systems, was amended to provide that the revenue loss of the credit would be recouped from the Energy Resources Programs Account of the Energy Commission.

SB 1216 (Costa), which would have granted a 1.5 cents-per-kwh credit for certain biomass energy production facilities. The Committee amended that bill express legislative intent to support biomass conversion activities.

AB 1513 (Cardoza), which would have granted a $30 per ton credit for costs of transporting agricultural waste to a conversion facility, was amended to an intent bill, similar to SB 1216 (Costa). AB 1513 has now been amended back to its original form, and has been referred back to this committee.

C. Isn't $750,000,000 enough?

The total amount of state tax credits and other tax benefits for alternative energy systems since the mid 1970s has totaled approximately $750 million. At the time these incentives were initiated the appeal was that traditional energy resources were scarce, alternatives needed to be put in place as soon as possible, and ordinary market mechanism were not up to the job. Proponents argued that government intervention in the market would only need to be temporary and that as soon as these technologies improved sufficiently to be economically viable on their own credits would no longer be needed.

However, the market for traditional energy (oil and gas) did not behave as expected when those credits were enacted; oil prices fell back down to below old price-adjusted levels, and gas prices have remained relatively low. The result is that the improved efficiency of solar technologies has not been sufficient to overcome the economic advantages of traditional sources. So despite the substantial state investment in solar technology, current energy economics still don't favor them.

However, it can be argued that traditional energy sources have historically benefited from government assistance and subsidies of various sorts, from enhanced recovery credits and percentage depletion allowances to international political and military actions to assure a ready supply of inexpensive oil and gas. In the face of these incentives, supporters of solar energy argue that state tax benefits only serve to partially level the playing field in their direction.

D. Constitutional "mandate"?

Some property tax exemptions are simply granted by the Constitution. Many others, such as that proposed in this bill, are grants of authority to the Legislature to enact an exemption by statute. In the latter class of exemption, even though the act is technically discretionary with the Legislature, some believe that vote of the people in amending the Constitution to authorize the exemption is, in effect, a popular mandate to the Legislature to enact an implementing statute.

Support and Opposition

Support: Cal. Solar Energy Industries Assn. (sponsor)

Numerous other organizations and manufacturers (list attached)

Consultant: Martin Helmke
June 11, 1998 11:01 AM

SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
STEVE PEACE, CHAIRMAN

AB 1755 - Keeley Hearing
Date: June 23, 1998 A
As Amended: June 22, 1998 FISCAL
B

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DESCRIPTION

Current law requires every electric utility in the state to offer its residential customers the ability to sell electricity generated by a customer's solar electric system back to the utility at the same price as the utility sells electricity. The amount of electricity which must be bought back by the utilities is capped at 0.1% of each utility's peak demand as of 1996.

This bill extends this electricity buy back provision to small commercial customers, and accommodates electricity generated by wind turbines and hybrid solar/wind turbine systems. The bill changes the buy back cap to 0.1% of each sellers' peak demand and further limits the obligation to buy back to 0.1% of the demand in each utility's service area. The bill also amends the mechanism by which the customer may take credit for any generated energy.

Current law , as articulated in Article XIIIA of the Constitution, permits the Legislature to exclude the construction or addition of any active solar energy system from the definition of assessable new construction.

This bill utilizes that Constitutional authority and provides for a property tax exemption of the value of active solar energy systems installed on or after January 1, 1998.

BACKGROUND

In 1995 the Legislature passed SB 656 (Alquist), which required all electric utilities to buy back any electricity generated by a customer-owned solar electric system. This buy-back program is known as "net metering" because the electricity purchases of the customer are netted against the electricity generated by the customer's solar electric system. In other words, when the customer buys electricity the meter spins forward. When the customer generates electricity the meter spins backward. One of the provisions of SB 656 is to cap the amount of electricity the utilities are required to buy back. That cap is 0.1% of each utilities' peak electricity demand for 1996. The net metering requirement encourages the use of solar electric systems because the power generated by the customer is valued the same as the power delivered to the customer by the utility.

Active solar energy systems have previously been excluded from new construction property taxes, though that exemption ended on June 30, 1994. As defined in this bill, active solar energy systems excludes solar swimming pool heaters and hot tub heaters.

COMMENTS

1. This bill is sponsored by the California Solar Energy Industries Association. They support the bill because they believe the net metering statute needs to be updated to reflect changes due to the restructuring of the electric industry and to enhance the effectiveness of net metering.

2. Current law was written in the context of monopoly utility generation. Those days have changed with customers now purchasing power from a variety of providers. This bill updates the wording of the statute to reflect this. It does not require non-utility

electric service providers to offer their customers a net metering option.

3.CAP CALCULATION ISSUES : This bill alters the cap on net-metered electricity sales. Previously the cap was set at a specific capacity for each utility service area (e.g. 17MW for PG&E). This bill changes that cap to 0.1% of the demand in each utility service area. However, there is a data collection problem in that, 1) demand changes over time, and 2) no provider of electric service knows the total demand in the utility service area because electricity sales are made through numerous providers. Some sellers may view demand information on their customers to be proprietary. If no one knows the demand then no one knows the level of the cap.

A second problem is the calculation of the total amount of generation capacity for the net metered customers. This number is needed to determine when the obligation to net meter additional customers ceases. The bill requires sellers to make available the generation capacity of their net metered customers but does not take the last step and provide for a mechanism for aggregating that data.

These two problems don't pose imminent concerns. The best estimates are that there are roughly 30 net meter customers in the state, which is less than 1% of the current cap. Yet if this net metering program encourages additional net metering, then problems will be inevitable.

These problem of calculating the cap can be resolved in either of two ways. The first option is to impose a numerical cap on the amount of capacity which must be net metered (i.e. 90 MW), rather than have the cap vary with changes in demand. This removes the data collection problem in calculating the cap, though it doesn't allow the cap to rise as overall electricity demand increases. The second option is to create a central repository of this information so that the cap calculations can be made. The CPUC is a logical choice given that all sellers of electricity already have a relationship with them through the registration process. The Energy Commission or the ISO are alternatives.

The problem of determining how much demand is net metered could be resolved by creating a central repository for that information.

4.A staff analysis by the Board of Equalization indicates no likely revenue effect from reinstating the new construction exclusion for active solar energy systems.

5.Once a property changes ownership the active solar energy system would become subject to property tax because the entire property would be subject to reappraisal.

6.This bill is to be referred to the Revenue and Taxation Committee upon successful passage of this committee.

ASSEMBLY VOTES

Assembly Revenue & Taxation	(10-0)
Assembly Appropriations	(21-0)
Assembly Utilities & Commerce	(12-0)
Assembly Floor	(77-2)

POSITIONS

Support:

American Wind Energy Association
Atlantis Energy, Inc.
Bergey Windpower, Sacramento
BP Solar, Inc., Fairfield
California Solar Energy Industries Association, Sacramento
Energy Efficiency, Orange
Environmental Defense Fund, Oakland
Environmental Solar Design, Inc. North Hollywood
Horizon Industries, Escondido
Independent Energy Producers
Independent Power Providers, North Fork
Light Energy Systems, Concord
Natural Resources Defense Council, San Francisco
Occidental Power, San Francisco
Off-Line Independent Energy Systems, North Fork
Pacific Energy Group, Walnut Creek
Performance Solar, Escondido
Planning & Conservation League (PCL)

Power Light, Berkeley
Radco Products, Santa Maria
Real Goods, Ukiah
Renewable Energy Concepts, Inc., San Luis Obispo
Schbolfield Solar Energy Company, Inc., San Buena Ventura
Siemens, Camarillo
Sierra Pacific Home and Comfort, Rancho Cordova
Solar Depot, Sacramento
Solar Depot, San Rafael
Solar Electrical Systems, Westlake
Sun Utility Network, Los Angeles
Trace Technologies, Livermore
Trace Engineering, Arlington, Washington
Western Solar Services, Mission Viejo
WindLite Corporation, Mountain View
Utility Power Group, Chatsworth
2 individuals

Oppose:
None reported to Committee.

Randy Chinn
AB 1755 Analysis
Hearing Date: June 23, 1998

SENATE REVENUE & TAXATION COMMITTEE
Senator Dede Alpert, Chair

AB 1755 - Keeley
Amended: 6/29/98

Hearing: July 1, 1998

Fiscal: YES

SUBJECT: Property Tax: "New construction" does not include active solar energy systems;

Energy: Net energy metering

DIGEST -- WHAT THE BILL DOES

EXISTING LAW (Proposition 13) provides that real property may only be reassessed when it changes ownership or when new construction takes place. In 1980 the Constitution was amended to permit the Legislature to exclude from the definition of new construction "the construction or addition of any active solar system." The Legislature enacted a statute which exempted active solar energy systems from new assessment as new construction. (The effect of this action was to exempt these systems from property taxation.) That statute sunset after the 1993-94 fiscal year.

THIS BILL would reinstate the prior exemption of active solar energy systems from appraisal as new construction. "Active solar energy system" is defined as a system using solar devices to provide for collection, storage or distribution of solar energy for (1) domestic, recreational, therapeutic or service water heating (not including swimming pool or hot tub heaters), (2) space conditioning, (3) production of electricity, (4) process heat, and (5) solar mechanical energy.

The new construction exemption would apply to the total value of the system, to 75% of the value of pipes and ducts used to carry both solar and non-solar energy, and to 75% of the value of dual-use equipment (ducts, pipes, etc., used by both solar energy equipment and auxiliary equipment).

The exemption would apply to qualified systems completed in 1995 and thereafter. However, assessments wouldn't be adjusted retroactively; the change would apply to assessments for the 1999-00 fiscal year and thereafter

The bill would also update the 1995 "net metering" law to accommodate electricity deregulation and to clarify its use with respect to small solar and wind systems. The bill is double-referred to the Energy, Utilities and Communications Committee for review of these provisions.

FISCAL EFFECT:

Board of Equalization believes that there would be virtually no near-term property tax loss as a result of this bill. This is based on the assumptions that (1) no large-scale, centralized solar systems (similar to the systems installed in the Barstow area by Luz International in the late 1980's) are likely to be installed in the foreseeable future; and (2) since active solar systems are not currently cost-beneficial, the construction would not enhance the value of the property and therefore no taxable value would be added to the property.

COMMENTS:

A. Purpose of the bill

The sponsors intend the bill to remove the potentially detrimental effect of property taxation of the installation of small active solar systems. They argue that the prospect of increased property taxes that might otherwise be levied on homeowners and small businesses installing these systems could render these investments impractical.

B. Prior energy-related bills

The committee has heard three other alternative energy-related bills this session.

SB 116 (Peace), which would have granted an income and corporation tax credit for cost of various energy systems, was amended to provide that the revenue loss of the credit would be recouped from the Energy Resources Programs Account of the Energy Commission.

SB 1216 (Costa), which would have granted a 1.5 cents-per-kwh credit for certain biomass energy production facilities. The Committee amended that bill express legislative intent to support biomass conversion activities.

AB 1513 (Cardoza), which would have granted a $30 per ton credit for costs of transporting agricultural waste to a conversion facility, was amended to an intent bill, similar to SB 1216 (Costa). AB 1513 has now been amended back to its original form, and has been referred back to this committee.

C. Isn't $750,000,000 enough?

The total amount of state tax credits and other tax benefits for alternative energy systems since the mid 1970s has totaled approximately $750 million. At the time these incentives were initiated the appeal was that traditional energy resources were scarce, alternatives needed to be put in place as soon as possible, and ordinary market mechanism were not up to the job. Proponents argued that government intervention in the market would only need to be temporary and that as soon as these technologies improved sufficiently to be economically viable on their own credits would no longer be needed.

However, the market for traditional energy (oil and gas) did not behave as expected when those credits were enacted; oil prices fell back down to below old price-adjusted levels, and gas prices have remained relatively low. The result is that the improved efficiency of solar technologies has not been sufficient to overcome the economic advantages of traditional sources. So despite the substantial state investment in solar technology, current energy economics still don't favor them.

However, it can be argued that traditional energy sources have historically benefited from government assistance and subsidies of various sorts, from enhanced recovery credits and percentage depletion allowances to international political and military actions to assure a ready supply of inexpensive oil and gas. In the face of these incentives, supporters of solar energy argue that state tax benefits only serve to partially level the playing field in their direction.

D. Constitutional "mandate"?

Some property tax exemptions are simply granted by the Constitution. Many others, such as that proposed in this bill, are grants of authority to the Legislature to enact an exemption by statute. In the latter class of exemption, even though the act is technically discretionary with the Legislature, some believe that vote of the people in amending the Constitution to authorize the exemption is, in effect, a popular mandate to the Legislature to enact an implementing statute.

Support and Opposition

Support: Cal. Solar Energy Industries Assn. (sponsor)
Numerous other organizations and manufacturers (list attached)
Planning and Conservation League

Consultant: Martin Helmke
June 25, 1998 3:42 PM

SENATE REVENUE & TAXATION COMMITTEE
Senator Dede Alpert, Chair

AB 1755 - Keeley
Amended: 6/29/98

Hearing: July 15, 1998

Fiscal: YES

SUBJECT: Property Tax: "New construction" does not include active solar energy systems;

Energy: Net energy metering

DIGEST -- WHAT THE BILL DOES

EXISTING LAW (Proposition 13) provides that real property may only be reassessed when it changes ownership or when new construction takes place. In 1980 the Constitution was amended to permit the Legislature to exclude from the definition of new construction "the construction or addition of any active solar system." The Legislature enacted a statute which exempted active solar energy systems from new assessment as new construction. (The effect of this action was to exempt these systems from property taxation.) That statute sunset after the 1993-94 fiscal year.

THIS BILL would reinstate the prior exemption of active solar energy systems from appraisal as new construction. "Active solar energy system" is defined as a system using solar devices to provide for collection, storage or distribution of solar energy for (1) domestic, recreational, therapeutic or service water heating (not including swimming pool or hot tub heaters), (2) space conditioning, (3) production of electricity, (4) process heat, and (5) solar mechanical energy.

The new construction exemption would apply to the total value of the system, to 75% of the value of pipes and ducts used to carry both solar and non-solar energy, and to 75% of the value of dual-use equipment (ducts, pipes, etc., used by both solar energy equipment and auxiliary equipment).

The exemption would apply to qualified systems completed in 1995 and thereafter. However, assessments wouldn't be adjusted retroactively; the change would apply to assessments for the 1999-00 fiscal year and thereafter

The bill would also update the 1995 "net metering" law to accommodate electricity deregulation and to clarify its use with respect to small solar and wind systems. The bill is has already been heard by the Energy, Utilities and Communications Committee for review of these provisions.

FISCAL EFFECT:

Board of Equalization believes that there would be virtually no near-term property tax loss as a result of this bill. This is based on the assumptions that (1) no large-scale, centralized solar systems (similar to the systems installed in the Barstow area by Luz International in the late 1980's) are likely to be installed in the foreseeable future; and (2) since active solar systems are not currently cost-beneficial, the construction would not enhance the value of the property and therefore no taxable value would be added to the property.

COMMENTS:

A. Purpose of the bill

The sponsors intend the bill to remove the potentially

detrimental effect of property taxation of the installation of small active solar systems. They argue that the prospect of increased property taxes that might otherwise be levied on homeowners and small businesses installing these systems could render these investments impractical.

They also indicate that the net energy metering provision and the property tax exemption are an attempt to coordinate public policy, so that the potential of property tax assessment of a new solar generating system (e.g., a residential photovoltaic roof) would not conflict with the policy of encouraging property owners to "get on the grid" by installing solar systems and selling their excess solar-generated output to the utility system.

B. Prior energy-related bills

The committee has heard three other alternative energy-related bills this session.

SB 116 (Peace), which would have granted an income and corporation tax credit for cost of various energy systems, was amended to provide that the revenue loss of the credit would be recouped from the Energy Resources Programs Account of the Energy Commission. Note: SB 116 has now been amended to include the same property tax exemption provision contained in this bill.

SB 1216 (Costa), which would have granted a 1.5 cents-per-kwh credit for certain biomass energy production facilities. The Committee amended that bill express legislative intent to support biomass conversion activities.

AB 1513 (Cardoza), which would have granted a $30 per ton credit for costs of transporting agricultural waste to a conversion facility, was amended to an intent bill, similar to SB 1216 (Costa). AB 1513 has now been amended back to its original form, and has been referred back to this committee.

C. Isn't $750,000,000 enough?

The total amount of state tax credits and other tax benefits for alternative energy systems since the mid 1970s has totaled approximately $750 million. At the time these incentives were initiated the appeal was that traditional energy resources were scarce, alternatives needed to be put in place as soon as possible, and ordinary market mechanism were not up to the job. Proponents argued that government intervention in the market would only need to be temporary and that as soon as these technologies improved sufficiently to be economically viable on their own credits would no longer be needed.

The market for traditional energy (oil and gas) did not behave as expected when those credits were enacted; oil prices fell back down to below old price-adjusted levels, and gas prices have remained relatively low. The result is that the improved efficiency of solar technologies has not been sufficient to overcome the economic advantages of traditional sources. So despite the substantial state investment in solar technology, current energy economics still don't favor them.

However, it can be argued that traditional energy sources have historically benefited from government assistance and subsidies of various sorts, from enhanced recovery credits and percentage depletion allowances to international political and military actions to assure a ready supply of inexpensive oil and gas. In the face of these incentives, supporters of solar energy argue that state tax benefits only serve to partially level the playing field in their direction.

D. Constitutional "mandate"?

Some property tax exemptions are simply granted by the Constitution. Many others, such as that proposed in this bill, are grants of authority to the Legislature to enact

an exemption by statute. In the latter class of exemption, even though the act is technically discretionary with the Legislature, some believe that vote of the people in amending the Constitution to authorize the exemption is, in effect, a popular mandate to the Legislature to enact an implementing statute.

E. Technical amendments, and a sunset

The author plans to offer technical amendments to the bill, by referring to the "ratemaking authority" rather than to the "commission"; and establishing the billing date (for net metering) as the "date of final interconnection of the eligible customer-generator's system."

In addition, at the suggestion of the Chair, the author will be adding a provision sunsetting the property tax exemption after seven years.

Support and Opposition

Support: Cal. Solar Energy Industries Assn. (sponsor)
Numerous other organizations and manufacturers (list attached)
Planning and Conservation League

Consultant: Martin Helmke
July 9, 1998 3:31 PM

SENATE REVENUE & TAXATION COMMITTEE
Senator Dede Alpert, Chair

AB 1755 - Keeley
Amended: 6/29/98

Hearing: July 22, 1998

Fiscal: YES

SUBJECT: Property Tax: "New construction" does not include active solar energy systems;

Energy: Net energy metering

DIGEST -- WHAT THE BILL DOES

EXISTING LAW (Proposition 13) provides that real property may only be reassessed when it changes ownership or when new construction takes place. In 1980 the Constitution was amended to permit the Legislature to exclude from the definition of new construction "the construction or addition of any active solar system." The Legislature enacted a statute which exempted active solar energy systems from new assessment as new construction. (The effect of this action was to exempt these systems from property taxation.) That statute sunset after the 1993-94 fiscal year.

THIS BILL would reinstate the prior exemption of active solar energy systems from appraisal as new construction. "Active solar energy system" is defined as a system using solar devices to provide for collection, storage or distribution of solar energy for (1) domestic, recreational, therapeutic or service water heating (not including swimming pool or hot tub heaters), (2) space conditioning, (3) production of electricity, (4) process heat, and (5) solar mechanical energy.

The new construction exemption would apply to the total value of the system, to 75% of the value of pipes and ducts used to carry both solar and non-solar energy, and to 75% of the value of dual-use equipment (ducts, pipes, etc., used by both solar energy equipment and auxiliary equipment).

The exemption would apply to qualified systems completed in 1995 and thereafter. However, assessments wouldn't be adjusted retroactively; the change would apply to assessments for the 1999-00 fiscal year and thereafter

The bill would also update the 1995 "net metering" law to accommodate electricity deregulation and to clarify its use with respect to small solar and wind systems. The bill is has already been heard by the Energy, Utilities and Communications Committee for review of these provisions.

FISCAL EFFECT:

Board of Equalization believes that there would be virtually no near-term property tax loss as a result of this bill. This is based on the assumptions that (1) no large-scale, centralized solar systems (similar to the systems installed in the Barstow area by Luz International in the late 1980's) are likely to be installed in the foreseeable future; and (2) since active solar systems are not currently cost-beneficial, the construction would not enhance the value of the property and therefore no taxable value would be added to the property.

COMMENTS:

A. Purpose of the bill

The sponsors intend the bill to remove the potentially

detrimental effect of property taxation of the installation of small active solar systems. They argue that the prospect of increased property taxes that might otherwise be levied on homeowners and small businesses installing these systems could render these investments impractical.

They also indicate that the net energy metering provision and the property tax exemption are an attempt to coordinate public policy, so that the potential of property tax assessment of a new solar generating system (e.g., a residential photovoltaic roof) would not conflict with the policy of encouraging property owners to "get on the grid" by installing solar systems and selling their excess solar-generated output to the utility system.

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The total amount of state tax credits and other tax benefits for alternative energy systems since the mid 1970s has totaled approximately $750 million. At the time these incentives were initiated the appeal was that traditional energy resources were scarce, alternatives needed to be put in place as soon as possible, and ordinary market mechanism were not up to the job. Proponents argued that government intervention in the market would only need to be temporary and that as soon as these technologies improved sufficiently to be economically viable on their own credits would no longer be needed.

The market for traditional energy (oil and gas) did not behave as expected when those credits were enacted; oil prices fell back down to below old price-adjusted levels, and gas prices have remained relatively low. The result is that the improved efficiency of solar technologies has not been sufficient to overcome the economic advantages of traditional sources. So despite the substantial state investment in solar technology, current energy economics still don't favor them.

However, it can be argued that traditional energy sources have historically benefited from government assistance and subsidies of various sorts, from enhanced recovery credits and percentage depletion allowances to international political and military actions to assure a ready supply of inexpensive oil and gas. In the face of these incentives, supporters of solar energy argue that state tax benefits only serve to partially level the playing field in their direction.

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The author plans to offer technical amendments to the bill, by referring to the "ratemaking authority" rather than to the "commission"; and establishing the billing date (for net metering) as the "date of final interconnection of the eligible customer-generator's system."

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Numerous other organizations and manufacturers (list attached)
Planning and Conservation League

Consultant: Martin Helmke
XXX 0, 0000 0:00 AM

APPROPRIATIONS COMMITTEE FISCAL SUMMARY

AB 1755 (Keeley)

Hearing Date: 8/11/98 Amended: 7/20/98

Consultant: Bob Franzoia Policy Vote: R&T 5-1

BILL SUMMARY: AB 1755 would:
(1) Reinstate the prior exemption of active solar energy systems from appraisal as new construction.
(2) Extends the electricity buy-back provisions of current law ("net meeting") to small commercial customers, and accommodates electricity generated by wind turbines and hybrid solar/wind turbine systems.

Fiscal Impact (in thousands)

Major Provisions	1998-99	1999-00	2000-01	Fund
Reinstatement of solar exemption	Unknown, probably minor, future loss of property tax revenues			General

STAFF COMMENTS: The new construction exemption applies to the total value of a qualifying active solar energy system, to 75 percent of the total value of pipes and ducts used to carry both energy and derived from solar energy and energy derived from other sources, and to 75 percent of the total value of dual use equipment e.g., equipment such as ducts and hot water tanks utilized by both auxiliary equipment and solar energy equipment. Solar swimming pool heaters do not qualify for this exemption.

The Board of Equalization indicates that historically, the property tax exclusion for active solar energy systems has benefited primarily developers of large commercial solar generating facilities. The primary beneficiary of this was Luz International Ltd. which, from 1984 to 1991, constructed nine solar electrical generating systems (SEGS) plants in the Mojave Desert. No other SEGS plants have been built by independent energy providers since the financial collapse of Luz in 1991.

With new federal and state programs that offer tax credits and other incentives such as net metering, it is expected that the number of commercial and residential grid-connected photovoltaic (PV) installations will increase. However, even with these incentives, customer-sited PV installations are still not cost effective. Since these systems are not cost beneficial, the construction does not enhance the value of the property and, therefore, no taxable value will be added for new construction.

STAFF RECOMMENDS the following amendment: On page 10, strike out lines 16 to 23 and insert: (d) This section shall apply to lien dates for the 1999-00 to 2004-05 fiscal years, inclusive. For purposes of supplemental assessment, this section shall apply only to qualifying construction completed on or after January 1, 1999. This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2006, deletes or extends that date. —

— This amendment, which is consistent with the operation of the existing sunset provision, would provide that the provisions of the bill only apply to systems installed after the effective date of the bill.

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916) 327-4478

AB 1755

THIRD READING

Bill No: AB 1755
Author: Keeley (D)
Amended: 8/17/98 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE : 7-0, 6/23/98
AYES: Peace, Brulte, Hayden, Hughes, Kelley, Rosenthal, Solis
NOT VOTING: Johnston, Mountjoy

SENATE REVENUE & TAXATION COMMITTEE : 3-1, 7/1/98
AYES: Hurtt, Knight, McPherson
NOES: Kopp
NOT VOTING: Alpert, Burton, Greene, Karnette

SENATE REVENUE & TAXATION COMMITTEE : 5-1, 7/22/98
AYES: Alpert, Burton, Karnette, Knight, McPherson
NOES: Kopp
NOT VOTING: Greene, Hurtt

SENATE APPROPRIATIONS COMMITTEE : 12-0, 8/11/98
AYES: Johnston, Alpert, Burton, Calderon, Dills, Johnson, Karnette, Kelley, Leslie, McPherson, Mountjoy, Vasconcellos
NOT VOTING: Hughes

ASSEMBLY FLOOR : 70-2, 5/4/98 - See last page for vote

SUBJECT : Solar and wind turbine energy systems: net energy metering

SOURCE : California Solar Energy Industries Association

DIGEST : This bill:

1. Reinstates the prior exemption of active solar energy systems from appraisal as new construction.

2. Extends the electricity buy-back provisions of current law ("net metering") to small commercial customers, and accommodates electricity generated by wind turbines and hybrid solar/wind turbine systems.

ANALYSIS : Existing law (Proposition 13) provides that real property may only be reassessed when it changes ownership or when new construction takes place. In 1980 the Constitution was amended to permit the Legislature to exclude from the definition of new construction "the construction or addition of any active solar system." The Legislature enacted a statute which exempted active solar energy systems from new assessment as new construction. (The effect of this action was to exempt these systems from property taxation.) That statute sunsetted after the 1993-94 fiscal year.

This bill would, until January 1, 2006, reinstate the prior exemption of active solar energy systems from appraisal as new construction. "Active solar energy system" is defined as a system using solar devices to provide for collection, storage or distribution of solar energy for (1) domestic, recreational, therapeutic or service water heating (not including swimming pool or hot tub heaters), (2) space conditioning, (3) production of electricity, (4) process heat, and (5) solar mechanical energy.

The new construction exemption would apply to the total value of the system, to 75% of the value of pipes and ducts used to carry both solar and non-solar energy, and to 75% of the value of dual-use equipment (ducts, pipes, etc., used by both solar energy equipment and auxiliary equipment).

The provisions of the bill only apply to systems installed after the effective date of the bill.

The bill would also update the 1995 "net metering" law to accommodate electricity deregulation and to clarify its use with respect to small solar and wind systems.

Comments

Purpose of the bill

The sponsors intend the bill to remove the potentially detrimental effect of property taxation of the installation of small active solar systems. They argue that the prospect of increased property taxes that might otherwise be levied on homeowners and small businesses installing these systems could render these investments impractical.

They also indicate that the net energy metering provision and the property tax exemption are an attempt to coordinate public policy, so that the potential of property tax assessment of a new solar generating system [e.g., a residential photovoltaic(PV) roof] would not conflict with the policy of encouraging property owners to "get on the grid" by installing solar systems and selling their excess solar-generated output to the utility system.

The new construction exemption applies to the total value of a qualifying active solar energy system, to 75 percent of the total value of pipes and ducts used to carry both energy and derived from solar energy and energy derived from other sources, and to 75 percent of the total value of dual use equipment e.g., equipment such as ducts and hot water tanks utilized by both auxiliary equipment and solar energy equipment. Solar swimming pool heaters do not qualify for this exemption.

The Board of Equalization indicates that historically, the property tax exclusion for active solar energy systems has benefited primarily developers of large commercial solar generating facilities. The primary beneficiary of this was Luz International Ltd. which, from 1984 to 1991, constructed nine solar electrical generating systems (SEGS) plants in the Mojave Desert. No other SEGS plants have been built by independent energy providers since the financial collapse of Luz in 1991.

With new federal and state programs that offer tax credits and other incentives such as net metering, it is expected that the number of commercial and residential grid-connected PV installations will increase. However, even with these incentives, customer-sited PV installations are still not cost effective. Since these systems are not cost beneficial, the construction does not enhance the value of the property and, therefore, no taxable value will be added for new construction.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: Yes

Reinstatement of solar exemption: unknown, probably minor, future loss of property tax revenues from the General Fund.

SUPPORT : (Verified 8/13/98)

California Solar Energy Industries Association (source)
Planning and Conservation League
Atlantis Energy, Inc.
BP Solar, Inc., Fairfield
Energency Efficiency, Orange
Environmental Defense Fund, Oakland
Environmental Solar Design, Inc., North Hollywood
Horizon Industries, Escondido
Independent Power Providers (IPP), North Fork
Kearney and Associates, Del Mar
LEVELEG (Precision Solar Mounting Systems), San Diego
Light Energy Systems, Concord
Natural Resources Defense Council, San Francisco, Los Angeles, New York, Washington D.C.Occidental Power, San Francisco
Off-Line Independent Energy Systems, North Fork
Pacific Energy Company, San Luis Obispo
Pacific Energy Group, Walnut Creek
Performance Solar, Escondido
PowerLight, Berkeley
Radco Products, Santa Maria
Real Goods, Ukiah
Renewable Energy Concepts, Inc., San Luis Obispo
Scolfield Solar Energy Company, Inc., San Buena Ventura
Science Applications International Corporation (SAIC), San Diego Siemens, Camarillo
Sierra Pacific Home and Comfort, Rancho Cordova
Solar Depot, Sacramento
Solar Depot, San Rafael
Solar Electrical Systems, Westlake
Sun Utility Network, Los Angeles
Trace Technologies, Livermore
Trace Engineering, Arlington, Washington (set national standard)
Western Solar Services, Mission Viejo
Utility Power Group, Chatsworth
Two individuals

ASSEMBLY FLOOR :
AYES: Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Bowler, Brewer, Brown, Bustamante, Campbell, Cardoza, Cedillo,

Cunneen, Davis, Ducheny, Escutia, Figueroa, Frusetta, Granlund, Havice, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, Migden, Miller, Morrissey, Murray, Napolitano, Olberg, Oller, Ortiz, Pacheco, Papan, Perata, Poochigian, Prenter, Pringle, Runner, Scott,

Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Vincent, Washington, Wayne, Woods, Wright, Villaraigosa

NOES: Floyd, McClintock

NOT VOTING: Cardenas, Firestone, Gallegos, Goldsmith, Hertzberg, Morrow, Richter, Wildman

NC:sl 8/17/98 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END **** _

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CONCURRENCE IN SENATE AMENDMENTS
AB 1755 (Keeley)
As Amended August 17, 1998
Majority vote

ASSEMBLY: 70-2 (May 4, 1998) SENATE: 32-4 (August 18, 1998)

Original Committee Reference: REV. & TAX.

SUMMARY : Requires every electric service provider to make a standard contract available to customer-generators in order to encourage investment in renewable energy resources and reinstate property tax exclusions for active solar energy systems from January 1, 1999 until January 1, 2006.

The Senate amendments :

1) Extend the electricity buy-back provisions of current law ("net metering") to small commercial customers.

2) Provide that an "eligible customer-generator" includes a residential customer, or a small commercial customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both.

3) Provide that the new construction exemption would apply commencing in January 1, 1999 and would remain in effect until January 1, 2006.

EXISTING LAW :

1) Authorizes the Legislature, under Proposition 7 of 1980, to provide that active solar energy systems shall be excluded from reassessment as "new construction."

2) Provides that "new construction" subjects a property to reassessment for purposes of property taxes. Only the portion of the property that is newly constructed or added on to the existing structure is reassessed.

3) Requires every electric utility in the state to offer a standard contract providing for net energy metering to eligible customer-generators.

AS PASSED BY THE ASSEMBLY , this bill:

1) Provided that an electric service provider is not obligated to provide net metering to additional customer-generators in its service area when the combined total peak demand of all customer-generators in its service area equals one-tenth of 1% of the aggregate customer peak demand of those electric service providers.

2) Requires every electric service provider to develop a standard contract and make such a contract available to

customer-generators.

3) Reinstated the exclusion from the term "new construction" the construction or addition of an active solar energy system. An active solar energy system may be used for domestic, recreational, therapeutic or service water heating; space conditioning; production of electricity; process heat or solar mechanical energy. The new construction exemption would apply to the total value of the system, to 75% of the value of pipes and ducts used to carry both solar and non-solar energy, and to 75% of the value of dual-use equipment (ducts, pipes, etc., used by both solar energy equipment and auxiliary equipment). This section applies only to lien dates commencing in the 1998-99 fiscal year and no reimbursement of local mandated costs is required because it is implementing a ballot measure.

FISCAL EFFECT : Unknown probably minor, future loss of property tax revenues.

COMMENT : Once a property changes ownership the solar system would become subject to property tax because the entire property would be subject to reappraisal.

All of the solar provisions related to the implementation of Proposition 7 sunset on June 30, 1994.

Analysis prepared by : Judi Smith / arevtax / (916) 319-2098