

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 28, 2009

To: The Commission
(Meeting of May 7, 2009)

From: Pamela Loomis, Director
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SB 32 (Negrete McLeod) – Renewable electric generation facilities: Feed-in Tariff.
As Amended April 14, 2009**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE UNLESS AMENDED

SUMMARY OF BILL:

This bill would modify the existing feed-in tariff (FIT) program established in Public Utilities Code (PU Code) 399.20. to raise the applicable facility size of the program, from 1.5 MW to 3 MW and to allow the Commission to adjust the price for "any other attributes of renewable generation." The bill would require that publicly-owned utilities with 75,000 or more customers would be required to offer this tariff.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The California Public Utilities Commission (CPUC) has worked to implement a feed-in tariff program since it was first introduced into code by AB 1969 (Yee, 2006) which establish Public Utilities Code (PU Code) Section 399.20. The Commission adopted D. 07-07-027 to implement this legislation and establish feed-in tariffs for small renewable generators, up to 1.5 MW in size. SB 380 (Kehoe, 2008) modified PU Code Section 399.20 so as to eliminate the requirement that the tariff be made available specifically to water and wastewater customer facilities.

The bill appears aimed at providing the Commission with additional flexibility in implementing the feed-in tariff program, but it may inadvertently have unintended consequences and limit our flexibility to establish a viable program in the future. The Commission is committed to working with the author on amendments (as explained, below in the analysis) to gain flexibility and avoid future problems.

SUMMARY OF SUGGESTED AMENDMENTS:

- See “Recommended Amendments” throughout the analysis below.
- **Recommended Amendment:** The bill language expressly states that the RPS program is insufficient. Section 1(c) of this bill states that “small projects of less than three megawatts that are otherwise eligible renewable energy resources may face difficulties in participating in competitive solicitations under the renewables portfolio standard program.” There are dozens of small projects under contract in the RPS program, and the existing feed-in tariff does address this concern. Recommend deletion of assertions in the bill language that state that our existing RPS program is insufficient.

DIVISION ANALYSIS (Energy Division):

This bill would require the Commission to modify its existing feed-in tariff program to:

- o adjust the payments made under the tariffs to account for the attributes of renewable generation. These attributes are not defined, and have not previously been litigated.
- o increase the size of the projects from 1.5 to 3 MW. A larger increase is currently under consideration.
- o allow program participants from the CSI and SGIP programs to be able to take a feed-in tariff contract. If the feed-in tariff price is raised significantly, this could lead to double-dipping.
- o require that the resources be strategically located near load
- o As is the current practice, this bill would not require that Electric Service Providers (ESPs) offer a feed-in tariff. The Commission has authority to impose non-bypassable charges on departing load if the utilities sign up projects under these tariffs that are above avoided cost.

The following list details a summary of items specified in the legislation, as well as suggested modifications, if applicable. Areas without suggested modifications are fully supported.

- **Eligible to all Renewable Technology:** The tariffs would continue to be open for all eligible renewable energy resources. (No change from current law.)
- **Total program cap:** The tariffs would continue to be available for up to 500 MW of new renewable generating capacity, allocated across the investor-owned utility territories. This represents no change from current law; however staff recommends that the Commission be authorized to adjust upwards or downwards this program cap capacity amount based on the needs of the Renewable Portfolio Standard (RPS) program through long-term renewable planning. It makes little sense to require this procurement if the IOUs have no need for additional capacity, and likewise it makes little sense to require the Commission to limit this program if it can be modified to be a successful vehicle

for RPS goal attainment. Likewise, if the applicable facility size is increased, the cap may need to be concurrently increased.

- **Recommended Amendment:** The Commission should have the flexibility to determine the program cap through long-term renewable planning. The Commission can use long-term renewable planning to determine how much small renewable generation each IOU needs relative to the cost, risk, and timing of other renewable procurement mechanisms.

- **Size of Facility:** The bill creates a new FIT program for all renewable projects that are less than or equal to 3 MW. Though the size limitation is the subject of an open proceeding at the CPUC and a determination has not been made, the CPUC staff recommends limiting the FIT to projects 10 MW and smaller since there is much potential on the distribution grid to easily interconnect renewable projects up to 10 MW. CPUC staff has analyzed the number of megawatts under a 10 MW size limit that could easily interconnect to the existing distribution substations without the need for upgrades and has found that there is enough technical potential to make significant progress in reaching the RPS program goals.

- Commission staff believes projects of this size have fewer environmental permitting and viability issues relative to projects greater than 10 MW. In addition, projects under 10 MW are not expected to need new transmission. As a result, these projects should be able to come online in a short period of time compared to larger projects.
 - **Recommended Amendment:** The project size limit should be 10 MW and less.

- **Price:** The price paid under the feed-in tariff would change from being at the "market price referent" adjusted for time-of-delivery (TOD), and instead it would additionally be adjusted for any other attributes of renewable generation. These renewable attributes are undefined and have not been litigated at the Commission. Parties would pressure the Commission to consider everything and anything as an attribute of renewable generation; and there are some benefits attributable to this tariff that might not be considered an attribute of renewable generation, such as locational benefits. This provision might conflict with other statute language or Commission decisions related to the definition of renewable energy credits, which are also "attributes of renewable generation". In addition, maintaining payment under these tariffs as related to the market price referent may be soon outdated since AB 64 and SB 14 both propose amendments to the Commission's market price referent statutory obligations.
 - **Recommended Amendment:** This language should be deleted and replaced with language that allows the Commission flexibility to determine a FIT price that does not overpay, but is high enough to attract development in key technologies, such as solar PV, that possess sufficient renewable potential and scale to address the state's renewable and climate change goals.

- **Customer Indifference:** The current legislation requires that the Commission ensure that ratepayers not participating in the feed-in tariff are "indifferent" to whether a ratepayer with an electric generation facility receives service pursuant to the tariff. Similar language about customer "indifference" is found in AB 1613 (Blakeslee, 2007) which established a feed-in tariff for combined heat and power. The bills states in Section 399.20 (d) "*The commission shall ensure, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether a ratepayer with an electric generation facility receives service pursuant to the tariff.*" There is no known standard for indifference, and it is unclear whether that standard is meant to refer to the Commission's adopted avoided cost formula.

If the statutory intent is that the payment under this small renewable generation feed-in tariff is meant to be equal to "avoided cost" so that non-participating customers are indifferent to whether the utility signs up a facility on the tariff, then

(1) there may be a conflict between prescribing the price using the market price referent and the Commission's adopted avoided cost formula, but this has not been litigated; and/or

(2) the Commission will be unable to authorize a feed-in tariff price at a price higher than avoided cost because presumably that would not leave customers "indifferent" to the new contracts. That would appear to conflict with the intent of the bill to adjust the price for renewable attributes.

- **Recommended Amendment:** Delete this customer indifference requirement and allow the Commission full flexibility to determine the price paid for projects under the feed-in tariff. Allow the Commission to establish a price above the avoided cost.
- **Examine Impact on Reliability:** The bill would require that the Commission, in consultation with the California Independent System Operator (CAISO), monitor and examine the impact on the transmission and distribution grid and any effects on ratepayers resulting from electric generation facilities operating pursuant to a tariff or contract approved by the Commission pursuant to this bill. This analysis is not currently done, and there are no parameters provided for such monitoring, although it could be beneficial to ensuring that California meet its renewable goals and maintains system reliability. This provision would require CAISO to cooperate with the Commission on this analysis, and the Commission cannot, on its own, require this cooperation. The Commission would support this provision provided that the CAISO was willing to undertake and fund this study.
- **Performance Standards:** This bill would require the Commission to establish performance standards for any electrical facility with capacity greater than 1 MW to ensure those facilities generate expected annual net production and do not impact system reliability. This bill would allow the Commission to reduce the 3 MW capacity limitations if reduced capacity limitation is necessary to maintain system reliability. This provision would be new to the program. While there are no parameters relating to the necessity to maintain system reliability, staff

expects that it could be accomplished through the adoption of contract terms and conditions that expressly provide for performance standards. In R.08-08-009, there is currently a process underway to consider expanding the program to facilities sized up to 20 MW. As part of that proceeding, staff has been reviewing what changes might be necessary to the performance standards portion of the feed-in tariff contracts. This may be unnecessary, especially if the Commission continues to maintain full flexibility regarding project size. Support, if it is tied to the Commission's ability to determine the size of the feed-in tariff.

- **Impact on Incentive Programs:** The bill would allow a customer electing this tariff to also be eligible to receive ratepayer-funded incentives for the capacity needed to offset part or all of the electrical demand of the customer. This provision of the program would be new and would conflict with D.07-07-027. The Commission's policy has been that customer-side of the meter incentives provided through the Self Generation Incentive Program (SGIP) or the California Solar Initiative (CSI) should not be provided to system-side of the meter wholesale generators. Instead, the Commission should be able to set the price of the contracts at a level that provides for the full value of the contracts, however defined, including the benefits that would be worthy of incentives. Customers that have taken SGIP and CSI should not be eligible for the feed-in tariff, especially if the price under the feed-in tariff is raised above avoided cost.
 - **Recommended Amendment:** Delete provisions that allow customer to take the SGIP and CSI incentives and then participate in the feed-in tariff. Customers should choose to be a customer side of the meter or a wholesale generator.
- **Impact on Net Energy Metering:** This bill would not allow any customer receiving service under a tariff or contract approved pursuant to this section to also participate in any net energy metering (NEM) program. Under the current feed-in tariff, a customer could have multiple systems that are separately metered. One system could be eligible for the feed-in tariff, and one or more system(s) could be eligible for NEM.
 - **Recommended Amendment:** Delete provisions that allow customer to take only one program. Customers should be able to sign up different accounts for NEM (and follow all the NEM rules) and for the feed-in tariff (and follow all the feed-in tariff rules).
- **Impact on Existing Incentive programs:** This bill would allow a project to sign-up for the feed-in tariff and receive incentive payments from the California Solar Initiative (CSI) and Self-Generation Incentive Program (SGIP). This provision will allow the same project to be paid twice: first as a buydown on the capital costs of the project, and second as the feed-in tariff energy payment.
 - **Recommended Amendment:** Delete provisions that allow customer to take the SGIP and CSI incentives and then participate in the feed-in tariff. Ratepayers should not pay for the same project twice.

- **Impact on RPS and Resource Adequacy:** Each kilowatt-hour of energy purchased shall count toward the utility's RPS annual procurement targets. The electricity generated by an electric generating facility under this tariff shall count toward the electrical corporation's resource adequacy requirement. This provision changes the language from every kilowatt-hour "generated" to "purchased" which provides for the fact that some generation can be used onsite. The Commission allowed feed-in tariff facilities to opt to either sell all or some of the generation output in its implementation of AB 1969, and this modification appears to support that implementation decision. Support.
- **Publicly Owned Utilities:** The bill would provide that publicly owned utilities (POU) with 75,000 or more customers establish similar feed-in tariffs. The governing board for the POU would set the price, considering the same adjustments listed above. The feed-in tariff would be capped for POUs at 250 MW. This provision would introduce feed-in tariffs to the POUs, which would level the playing field for the IOUs. Support.
- The bill may limit the Commission's ability to further modify the feed-in tariff program in response to the needs of the RPS program.
- As written, this bill would create overlap with part of the Commission's existing RPS program that calls for open, competitive solicitations for renewables in the RPS program. The current program requires competitive solicitations for resources above 1.5 MW.

PROGRAM BACKGROUND:

- Under the existing program, PG&E has 13 signed contracts (One wind, five small hydro, seven landfill gas projects, and no solar projects.) SCE has no contracts signed, but has received interest and several projects are actively working toward execution of a contract. SDG&E has no signed contracts.
- Public Utilities Code § 399.20 requires each electrical corporation to establish a tariff for the purchase of electricity from an eligible renewable water or wastewater facility at a market price determined by the Commission. The Commission implemented § 399.20 by D. 07-07-027 on June 26, 2007. The decision adopted tariffs and standard contracts for the purchase of this electricity up to 1.5 MW from water and wastewater customers, and additionally it made the same program available to all other renewable customer generators in PG&E and SCE territory. Later, the Commission expanded the program to all customers in SDG&E's territory. The Commission's implementation of § 399.20 is considered phase 1 of the Tariff and Standard Contract Implementation for RPS Generators. The Commission is currently considering phase 2, which includes consideration of expanding the contract to facilities up to 20 MW under R.08-08-009.

- On September 28, 2008, SB 380 amended Public Utilities Code § 399.20 to allow purchase of electricity for any eligible renewable electric facility and increased the statewide cap from 250 MW to 500 MW, and it removed any requirement that the tariff be available to water or wastewater facilities. Comments have been filed with the Commission concerning implementing the changes mandated in SB 380, and the Commission is currently working on a Decision to implement SB 380.
- The California Energy Commission (CEC) has been investigating feed-in tariffs. They held staff workshops on June 30, 2008 and October 1, 2008 in order to discuss policy directions for feed-in tariffs. Prior to the October 1, 2008 workshop a draft consultant report was issued entitled “California Feed-in Tariff Design and Policy Options”. Based on that report and workshops, the CEC has recommended that the Commission immediately implement a feed-in tariff program for all RPS-eligible generating facilities up to 20 MW in size. They recommend that such a program should include must-take provisions as well as cost-based technology-specific prices that generally decline over time and are not linked to the MPR.
- As a part of R.08-08-009, the Commission is considering expanding the existing FIT program from 1.5 MW to 20 MW. The ALJ is currently finalizing a ruling that will contain a staff proposal on program design issues and terms and conditions. Staff recommends that the Commission expand the existing program to 10 MW and consider changing the FIT price in the next phase of the proceeding. The Commission issued a ruling in June, and staff issued two data requests in October and January to better understand party positions. Staff also held a workshop in February on FIT program design and terms and conditions. In designing an expanded FIT program, the Commission needs to carefully balance the cost, risk, and timing of the overall RPS program with the cost, risk, and timing of an expanded FIT program.
- The Commission is required to analyze, in conjunction with the CAISO, the impacts on the transmission and distribution system. No report is required, but the statute implies that one may be prepared.

OTHER STATE AND FEDERAL INFORMATION:

Congress is currently considering proposed feed-in tariff national legislation, in conjunction with national RPS bills. There is currently no federal mandate related to feed-in tariffs.

Several other states are considering feed-in tariffs, and the City of Gainesville, Florida recently enacted a small feed-in tariff in lieu of a program like the California Solar Initiative.

Eighteen European countries have FIT programs and Germany leads the world in terms of installed capacity for both photovoltaics (PV) and for wind energy as a result of its feed-in tariff policies. By the end of 2007, Germany had 22,622 MW of wind and 3,800

MW of solar PV capacity installed in the country, with annual additions of 1,667 MW of wind and 1,100 MW of PV added in 2007 alone. The German FIT has been very successful in building new projects, but as mentioned previously, has come at a high price to ratepayers.

Spain also has a feed-in tariff program that has resulted in much development. By the end of 2007, Spain had installed 15,145 MW of wind capacity, and 500 MW of PV capacity. On the other hand, Spain had to freeze and then revise its feed-in tariff program midcourse because of lucrative payments and unexpected interest. This boom and bust hurt the solar market in Spain and has resulted in economic loss and oversupply. Thus, the success of a feed-in tariff is very dependent on the goals of the program and the program's design.

LEGISLATIVE HISTORY:

- The adoption of AB 1969 (Yee, 2006) led to the implementation of P.U. Code Section 399.20. As aforementioned, this Code Section provides California's only feed-in tariff to date.
- The adoption of SB 380 (Kehoe, 2008) altered P.U. Code Section 399.20 to include all renewables and increased the statewide cap to 500 MW.
- The implementation of P.U. Code Section 399.11 established the RPS requirement of "generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010."

STATUS:

SB 32 has been referred to the Senate Appropriations Committee upon passage from the Senate Energy, Utilities and Communications Committee on April 21, 2009.

SUPPORT/OPPOSITION:

Support: Agricultural Energy Consumers Association
California Solar Energy Industries Association (sponsor)
Pacific Gas and Electric Company (if amended)
Sempra Energy (if amended)

Opposition: State Association of Electrical Workers (unless amended)

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Date: April 28, 2009

BILL LANGUAGE:

BILL NUMBER: SB 32 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 14, 2009

INTRODUCED BY Senator Negrete McLeod

DECEMBER 2, 2008

An act to amend Section 399.20 of, and to add Section 387.6 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 32, as amended, Negrete McLeod. Renewable electric generation facilities.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity by electrical corporations and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). Under existing law the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that is owned and operated by a retail customer of the electrical corporation. Existing law requires that the electric generation facility: (1) have an effective capacity of not more than 1.5 megawatts and be located on property owned or under the control of the customer, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the renewables portfolio standard program. Existing law requires that the tariff provide for payment for every kilowatthour of electricity generated by an electric generation facility at a market price referent established by the commission pursuant to the renewables portfolio standard program. Existing law requires the electrical corporation to make this tariff available to customers that own and

operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 500 megawatts, or the electrical corporation meets its proportionate share of the 500 megawatt limit based upon the ratio of its peak demand to total statewide peak demand of all electrical corporations. Existing law authorizes the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit. Existing law provides that the electricity generated by an electric generation facility counts toward the electrical corporation's renewables portfolio standard and provides that the physical generating capacity counts toward meeting the electrical corporation's resource adequacy requirements.

This bill would require an electrical corporation to file with the commission a standard tariff for the electricity purchased from an electric generation facility that is ~~owned, leased, or rented by a retail customer of~~ *located within the service territory of, and developed to sell electricity to,* the electrical corporation. The bill would revise the first requirement, discussed above, to instead require that the electric generation facility have an effective capacity of not more than 3 megawatts, subject to the authority of the commission to reduce this megawatt limitation, discussed below, *and would delete the requirement that the facility be located on property owned or under the control of the customer*. The bill would revise the third requirement, discussed above, to require that the electric generation facility be strategically located and interconnected to the electric grid in a manner that is considered deliverable to load, pursuant to the deliverability assessments of the Independent System Operator (ISO). The bill would require that the tariff provide for ~~a base payment rate~~ for every kilowatthour of electricity purchased from an electric generation facility ~~at the market price referent established by the commission pursuant to the renewables portfolio standard program,~~ for a period of 10, 15, or 20 years, as authorized by the commission.

The bill would require that the payment be the market price referent established by the commission pursuant to the renewables portfolio standard program. The bill would authorize the commission to adjust the payment ~~rate~~ to reflect the value of the electricity on a time-of-delivery basis and any other attributes of renewable generation and require, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether other ratepayers receive service pursuant to the tariff. *The bill would require the commission to consider, and would authorize the commission to establish, a value for an electric generation facility located on a distribution circuit that offsets the peak demand on that circuit. The bill would require an electrical corporation to provide expedited interconnection procedures to electric generation facilities located on a distribution circuit that offsets peak demand on that circuit.* The bill would require the electrical corporation to make the tariff available to ~~any customer that owns, leases, or rents~~ *the owner or operator of*

an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation

facilities subject to tariffs with electrical corporations reaches 500 megawatts, or its proportionate share of that limit. The bill would provide that the electricity purchased from an electric generation facility counts toward meeting the electrical corporation's renewables portfolio standard and that electricity generated by the electric generation facility counts toward meeting the electrical corporation's resource adequacy requirements. The bill would require the commission, in consultation with the ISO, to monitor and examine the impact on the transmission and distribution grid and any effects upon ratepayers resulting from electric generation facilities operating pursuant to the bill's provisions, would require the commission to establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability, and would authorize the commission to reduce the 3 megawatt capacity limitation if the commission finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory. The bill would recast the existing authority of the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.

This bill would provide that ~~a customer that~~ *an owner or operator of an electric generation facility that received ratepayer-funded incentives and participated in a net metering program prior to January 1, 2010, would be eligible for a tariff or standard contract filed by an electrical corporation pursuant to the above-described provisions. An owner or operator that* receives service pursuant to a tariff *or standard contract* adopted by an electrical corporation pursuant to the above-described provisions is not eligible to participate in any net metering program. ~~Under the bill, a customer that elects to receive electrical service pursuant to a tariff filed by an electrical corporation pursuant to the bill is eligible to receive ratepayer-funded incentives in accordance with the self-generation incentive program or the California Solar Initiative for the capacity needed to offset part or all of the electrical demand of the customer.~~

This bill would require a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. The bill would require the local publicly owned electric utility to make the tariff available to ~~customers that own and operate~~ *owners and operators of* an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities subject to tariffs with local publicly owned electric utilities reaches 250 megawatts. The bill would provide that the electricity purchased from an electric generation facility counts towards meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime. Because this bill would require an order or other action of the commission to implement its provisions, and a violation of that order or action would be a

crime, the bill would impose a state-mandated local program by creating a new crime. By placing additional requirements upon local publicly owned electric utilities, which are entities of local government, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

~~—(a) The state should encourage the reduction of electricity demand at customer sites and increase generating capacity in order to meet the demand for electricity.~~

(a) *While the first goal in meeting the state's energy needs should be to reduce energy demand through cost-effective improvements in energy efficiency, the state should also encourage the location of clean generation close to load centers in order to meet increases in the demand for electricity.*

(b) Some tariff structures and regulatory structures are presenting a barrier to meeting the requirements and goals of the California Renewables Portfolio Standard Program (Section 387 of, and Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code).

(c) Small projects of less than three megawatts that are otherwise eligible renewable energy resources may face difficulties in participating in competitive solicitations under the renewables portfolio standard program.

(d) A tariff that allows ~~customers of~~ *owners or operators of electric generation facilities that are eligible renewable energy resources to sell electricity generated by those facilities to electrical corporations and local publicly owned electric utilities* ~~to sell electricity generated by renewable technologies~~ would address these barriers and could assist in the achievement of the renewables portfolio standard and the state's goals for reducing emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006.

(e) A tariff for electricity generated by renewable technologies should recognize the environmental attributes of the renewable technology, the characteristics that contribute to peak electricity demand reduction, reduced transmission congestion, avoided transmission and distribution improvements, and in a manner that accelerates the deployment of renewable energy resources.

(f) It is the policy of this state and the intent of the Legislature to encourage the generation of electricity from eligible renewable energy resources ~~at the sites~~ *located in close proximity to* where the electricity will be utilized.

SEC. 2. Section 387.6 is added to the Public Utilities Code, to read:

387.6. (a) It is the policy of the state and the intent of the

Legislature to encourage electrical generation from eligible renewable energy resources.

(b) As used in this section, "electric generation facility" means an electric generation facility ~~—, owned, leased, or rented by a retail customer of—~~ located within the service territory of, and developed to sell electricity to, a local publicly owned electric utility, and that meets all of the following criteria:

(1) Has an effective capacity of not more than three megawatts ~~—and is located on property owned or under the control of the customer. Premises that are leased by the customer are under the control of the customer for purposes of this paragraph. The customer is not required to own the electric generation facility.~~

(2) Is interconnected and operates in parallel with the electric transmission and distribution grid.

(3) Is strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers.

(4) Is an eligible renewable energy resource ~~—, as defined in Section 399.12.—~~ pursuant to Article 16 (commencing with Section 399.11).

(c) A local publicly owned electric utility that sells electricity at retail to 75,000 or more customers shall adopt a standard tariff for electricity purchased from an electric generation facility.

(d) The governing board of the local publicly owned electric utility shall ensure that the tariff adopted pursuant to subdivision (c) reflects the value of every kilowatthour of electricity generated on a time-of-delivery basis. The governing board may adjust this value based on the other attributes of renewable generation. The governing board shall ensure, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether a ratepayer with an electric generation facility receives service pursuant to the tariff.

(e) A local publicly owned electric utility that sells electricity at retail to 75,000 or more customers shall make the tariff available to ~~customers that own, lease, or rent~~

~~the owner or operator of~~ an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities reaches 250 megawatts. A local publicly owned electric utility may make the terms of the tariff available to ~~customers—~~ owners and operators of an electric generation facility in the form of a standard contract. A local publicly owned electric utility is only required to offer service or contracts under this section until the utility meets its proportionate share of the 250 megawatts based on the ratio of its peak demand to the total statewide peak demand.

(f) Every kilowatthour of electricity purchased from an electric generation facility shall count toward meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets for purposes of Section 387.

(g) (1) A local publicly owned electric utility may establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability.

(2) A local publicly owned electric utility may reduce the three megawatt capacity limitation of paragraph (1) of subdivision (b) if the utility finds that a reduced capacity limitation is necessary.

SEC. 3. Section 399.20 of the Public Utilities Code is amended to read:

399.20. (a) It is the policy of this state and the intent of the Legislature to encourage electrical generation from eligible renewable energy resources.

(b) As used in this section, "electric generation facility" means an electric generation facility ~~—, owned, leased, or rented by a retail customer of—~~ located within the service territory of, and developed to sell electricity to, an electrical corporation that meets all of the following criteria:

(1) Has an effective capacity of not more than three megawatts ~~—and is located on property owned or under the control of the customer. Premises that are leased or rented by the customer are under the control of the customer for purposes of this paragraph. The retail customer is not required to own the electric generation facility.—~~ .

(2) Is interconnected and operates in parallel with the electric transmission and distribution grid.

(3) Is strategically located and interconnected to the electric grid in a manner that is considered deliverable to load, pursuant to the Independent System Operator deliverability assessments.

(4) Is an eligible renewable energy resource ~~—, as defined in Section 399.12—~~ .

(c) Every electrical corporation shall file with the commission a standard tariff for electricity purchased from an electric generation facility. The commission may modify or adjust the requirements of this section for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.

(d) The tariff shall provide for ~~a base payment rate for every kilowatthour of electricity purchased from an electric generation facility at the market price as determined by the commission pursuant to Section 399.15 for a period of 10, 15, or 20 years, as authorized by the commission—~~ payment for every kilowatthour of electricity purchased from an electric generation facility for a period of 10, 15, or 20 years, as authorized by the commission. The payment shall be the market price determined by the commission pursuant to Section 399.15 . The commission may adjust the payment rate to reflect the value of every kilowatthour of electricity generated on a time-of-delivery basis and any other attributes of renewable generation. *The commission shall consider and may establish a value for an electric generation facility located on a distribution circuit that generates electricity at a time and in a manner so as to offset the peak demand on the distribution circuit. The commission, in consultation with the Energy Commission, shall establish the cost of generation values and costs for each technology that is an eligible renewable energy resource.*

The commission shall ensure, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether a ratepayer with an electric generation facility receives service pursuant to the tariff.

(e) *Electrical corporations shall provide expedited interconnection procedures to electric generation facilities located on a distribution circuit that generates electricity at a time and in a manner so as to offset the peak demand on the distribution circuit.*

~~—(e)~~

(f) Every electrical corporation shall make this tariff available to ~~customers that own, lease, or rent~~ the owner or operator of an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities reaches 500 megawatts. An electrical corporation may make the terms of the tariff available to ~~customers~~ owners and operators of an electric generation facility in the form of a standard contract subject to commission approval. Each electrical corporation shall only be required to offer service or contracts under this section until that electrical corporation meets its proportionate share of the 500 megawatts based on the ratio of its peak demand to the total statewide peak demand.

~~—(f)~~

(g) Every kilowatthour of electricity purchased from an electric generation facility shall count toward meeting the electrical corporation's renewables portfolio standard annual procurement targets for purposes of paragraph (1) of subdivision (b) of Section 399.15.

~~—(g)~~

(h) The electricity generated by an electric generation facility, consistent with Section 380, shall count toward the electrical corporation's resource adequacy requirement.

~~—(h)~~

(i) (1) The commission, in consultation with the Independent System Operator, shall monitor and examine the impact on the transmission and distribution grid and any effects upon ratepayers resulting from electric generation facilities operating pursuant to a tariff or contract approved by the commission pursuant to this section.

(2) The commission shall establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability.

(3) The commission may reduce the three megawatt capacity limitation of paragraph (1) of subdivision (b) if the commission finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory.

~~—(i) (1) A customer that elects to receive electrical service pursuant to a tariff filed by an electrical corporation pursuant to this section is eligible to receive ratepayer funded incentives in accordance with Section 25782 of the Public Resources Code, or with Section 379.6, for the capacity needed to offset part or all of the electrical demand of the customer. For the purpose of determining the capacity needed to offset part or all of the electrical demand of an agricultural customer, the electrical corporation shall aggregate the electrical load of the agricultural customer under the same ownership located on property adjacent or contiguous to the agricultural customer's electric generation facility.~~

(j) (1) Any owner or operator of an electric generation facility that received ratepayer-funded incentives in accordance with Section 379.6, or with Section 25782 of the Public Resources Code, and participated in a net metering program pursuant to Sections 2827, 2827.9, and 2827.10 prior to January 1, 2010, shall be eligible for a tariff or standard contract filed by an electrical corporation

pursuant to this section.

(2) In establishing the tariffs or standard contracts pursuant to this section, the commission may consider ratepayer-funded incentive payments previously received by the generation facility pursuant to Section 379.6 or Section 25782 of the Public Resources Code.

~~—(2)~~

(3) A customer that receives service under a tariff or contract approved by the commission pursuant to this section is not eligible to participate in any net metering program.

~~—(j) (1) A customer~~

(k) (1) An owner or operator of an electric generation facility electing to receive service under a tariff or contract approved by the commission shall continue to receive service under the tariff or contract until either of the following occurs:

(A) The ~~customer~~ owner or operator of an electric generation facility no longer meets the eligibility requirements for receiving service pursuant to the tariff or contract.

(B) The period of service established by the commission pursuant to subdivision (d) is completed.

(2) Upon completion of the period of service established by the commission pursuant to subdivision (d), the customer may elect to renew receiving service pursuant to the tariff or contract approved by the commission for the period of time then established by the commission, or may elect to receive service under another then applicable tariff.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because certain costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

With respect to certain other costs, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.