Date: May 16, 2007

To: The Commission
(Meeting of May 24, 2007)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: SB 463 (Negrete McLeod) Energy: biogas digester
customer-generator pilot program.
As Amended: May 1, 2007

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT

SUMMARY OF BILL:

The bill clarifies that utilities may enter into a contract with eligible net metered biogas generating facilities to purchase their excess electricity production. The utilities are not required to purchase this power, it is optional.

The bill was recently amended to clarify that the price at which the utility may purchase the power shall not exceed the market price, as determined by the Commission pursuant to PU Code 399.15.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

This bill would provide clarity that IOUs may purchase excess production from net metered biogas generators, at the MPR, and be able to count this power toward their RPS (Renewable Portfolio Standards) obligation.

SUMMARY OF SUGGESTED AMENDMENTS:

None.
DIVISION ANALYSIS (Energy Division):

- Under existing statute, the Commission must report to the legislature regarding the environmental and economic impacts of biogas net metering by December 31, 2008.
- This bill is to provide clarity regarding the excess electricity production of these facilities.

PROGRAM BACKGROUND:

- PU Code Section 2827.9 allows biogas generators to participate in net energy metering. This means that the customer-generator's onsite production is credited towards the customer's electricity bill. If the customer is a net consumer, the customer pays for net consumption. If the customer is a net generator, the utility is not required to pay for excess consumption.

LEGISLATIVE HISTORY:

- AB 1223 (2007) – solar and wind net metering aggregation for agricultural customers
- AB 1428 (2007) – biomass (poultry waste) net metering
- AB1969 [CH. 731, Stats. 2006 (Yee)] and subsequent Public Utilities Code 399.20 encourage renewable energy production at public water and wastewater facilities. The CPUC is considering whether to expand this through the currently on-going RPS proceeding.
- AB 2228 [CH 834, Stats.2002 (Negrete McLeod)] created a pilot project providing partial (gen-to-gen) net-metering to customer-owned electric generation fueled by biogas.

FISCAL IMPACT:

Minor and absorbable.

STATUS:

SB 463 is pending hearing in the Senate Appropriations Committee.
SUPPORT/OPPOSITION:

Support: Inland Empire Utility Agency (sponsor)
Western United Dairymen (sponsor)
Agricultural Energy Consumers Association
California Farm Bureau Federation

Opposition: None on file.

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Date: May 16, 2007
BILL LANGUAGE:

BILL NUMBER: SB 463 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE MARCH 28, 2007

INTRODUCED BY Senator Negrete McLeod

FEBRUARY 21, 2007

An act to amend Section 2827.9 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST


Under existing law, electrical corporations are required to provide eligible biogas digester customer-generators, as defined, that commence operation by December 31, 2009, with net energy metering, as defined, under a pilot program. Existing law requires an electrical corporation to file a standard tariff providing for net energy metering for up to 3 large biogas digester electrical generating facilities with a capacity of more than one megawatt and not more than 10 megawatts. Existing law authorizes an eligible biogas digester customer-generator to continue to receive service pursuant to the net energy metering tariff for the life of the facility, after December 31, 2009. Existing law provides that if the electricity generated by the eligible biogas digester customer-generator exceeds the electricity supplied by the electrical corporation over a 12-month period, the eligible biogas digester customer-generator is a net electricity producer and the electrical corporation retains any excess kilowatthours generated over the 12-month period. No compensation is owed the eligible biogas digester customer-generator for those excess kilowatthours.

Under the bill, the eligible biogas digester customer-generator would not be owed any compensation for those excess kilowatthours, unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours. The bill would impose a limit on the price for kilowatthours in a purchase agreement.


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

SECTION 1. Section 2827.9 of the Public Utilities Code is amended to read:

2827.9. (a) (1) The Legislature finds and declares that a pilot program to provide net energy metering for eligible biogas digester customer-generators would enhance the continued diversification of
California's energy resource mix and would encourage the installation of livestock air emission controls that the State Air Resources Board believes may produce multiple environmental benefits.

(2) The Legislature further finds and declares that the net energy metering pilot program authorized pursuant to this section for eligible biogas digester customer-generators, which nets out generation charges against generation charges on a time-of-use basis, furthers the intent of Chapter 7 of the Statutes of 2001, First Extraordinary Session, by facilitating the implementation of energy efficiency programs in order to reduce consumption of energy, reduce the costs associated with energy demand, and achieve a reduction in peak electricity demand.

(b) As used in this section, the following definitions apply:
   (1) "Electrical corporation" means an electrical corporation, as defined in Section 218.
   (2) (A) "Eligible biogas digester customer-generator" means a customer of an electrical corporation that meets both of the following criteria:
      (i) Uses a biogas digester electrical generating facility with a capacity of not more than one megawatt that is located on or adjacent to the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is sized to offset part or all of the eligible biogas digester customer-generator's own electrical requirements.
      (ii) Is the recipient of local, state, or federal funds, or who self-finances pilot projects designed to encourage the development of eligible biogas digester electrical generating facilities.
   (B) Notwithstanding subparagraph (A), up to three large biogas digester electrical generating facilities with a generating capacity of more than one megawatt and not more than 10 megawatts, otherwise meeting the criteria of this section, shall be eligible for participation in the pilot program.
   (3) "Eligible biogas digester electrical generating facility" means a generating facility used to produce electricity by either a manure methane production project or as a byproduct of the anaerobic digestion of biosolids and animal waste.
   (4) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the difference between the electricity generated by an eligible biogas digester customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a time-of-use meter capable of registering the flow of electricity in two directions. If the existing electrical meter of an eligible biogas digester customer-generator is not capable of measuring the flow of electricity in two directions, the eligible biogas digester customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a time-of-use meter.
   (c) Every electrical corporation shall file with the commission a standard tariff providing for net energy metering for eligible biogas digester customer-generators, consistent with this section. Every electrical corporation shall make this tariff available to eligible biogas digester customer-generators upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity used by the eligible biogas
digester customer-generators in the service territories of the three largest electrical corporations in the state reaches 50 megawatts. An eligible biogas digester customer-generator shall be eligible for the tariff for the life of the eligible biogas digester electrical generating facility.

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

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

1) The eligible biogas digester customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible biogas digester customer-generator's system with an electrical corporation, and at each anniversary date thereafter, be billed for electricity used during that period. The electrical corporation shall determine if the eligible biogas digester customer-generator was a net consumer or a net producer of electricity during that period. For purposes of determining if the biogas digester customer-generator was a net consumer or a net producer of electricity during that period, the electrical corporation shall aggregate the electrical load of a dairy operation under the same ownership, including, but not limited to, the electrical load attributable to milking operations, milk refrigeration, and water pumping located on property adjacent or contiguous to the dairy. Each aggregated account shall be billed and measured according to a time-of-use rate schedule.

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

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

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

(3) At the end of each 12-month period, where the electricity generated by the eligible biogas digester customer-generator during the 12-month period exceeds the electricity supplied by the electrical corporation during that same period, the eligible biogas digester customer-generator is a net electricity producer and the electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The eligible biogas digester customer-generator shall not be owed any compensation for those excess kilowatthours, unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours. The price for kilowatthours in a purchase agreement shall not exceed 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, exclusive of any environmental attributes associated with the kilowatthours.

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

(f) No biogas digester electrical generating facility shall be eligible for participation in the tariff established pursuant to this section, that has not commenced operation by December 31, 2009. A biogas digester customer-generator shall be eligible for the tariff established pursuant to this section, only for the operating life of the eligible biogas digester electrical generating facility.

(g) No biogas digester electrical generating facility that is subject to the best available control technology (BACT) requirements shall be eligible for participation in the tariff pursuant to this section unless the biogas digester electrical generating facility has installed the best available control technology as required by the local air pollution control district or air quality management district at the time of installation to ensure the maximum feasible reductions in toxic and criteria pollutants.

(h) On or before December 31, 2008, the commission, in collaboration with the State Air Resources Board, shall report to the Legislature all of the following information:

(1) The impact of the pilot program on emissions of air pollutants.

(2) The impact of the pilot program on the reliability of the transmission and distribution grid.
(3) The impact of the pilot program on ratepayers.