STATE OF CALIFORNIA | Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 16, 2007

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

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

Subject: **SB 428 (Dutton) – Electrical corporations: rates.**
As Amended: May 1, 2007

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE UNLESS AMENDED

SUMMARY OF BILL: This bill would require electric utilities to offer optional interruptible or curtailable service programs and air-conditioning cycling programs through pricing incentives that are cost-effective and reflect avoided costs, including reduction in greenhouse gases and other pollutant emissions.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The bill requires what the California Public Utilities Commission (Commission) is currently pursuing: cost-effective demand response programs. However, it is unknown at this time as to when, and to what extent, the avoidance of greenhouse gas emissions and other pollutants can be tied to demand response programs and how to quantify those avoided costs.

SUMMARY OF SUGGESTED AMENDMENTS (if any):

The Commission recommends the bill be amended as follows:

> 743.1. (a) Electrical corporations shall continue and expand the availability of optional offer optional interruptible or curtailable service programs and air-conditioning cycling programs to their customers through, using pricing incentives for participation in these programs. These pricing incentives shall be cost effective and reflect the full range of costs avoided by the reductions in demand created by these programs, including the reduction in emissions of greenhouse

> gases and other pollutant emissions from generating facilities that would have been required to operate but for these demand reductions, ***<u>to the extent that the aforementioned costs can be quantified by the Commission.</u>***

This amendment is necessary as it is unknown at this time as to the timing and extent the Commission will be able to carry out the requirements of the bill, especially with respect to the avoidance of greenhouse gas emissions.

DIVISION ANALYSIS (Energy Division):

- **The bill's general requirement of cost-effective pricing incentives is an action already being pursued by the Commission.** The Commission has an active proceeding (R.07-01-041) whose purpose is to determine the cost-effectiveness of all demand response programs, including the two types of programs specified in the bill. Programs that are found to be currently not cost-effective could be modified by the Commission, such as re-setting the pricing incentives, so as to make them cost-effective.

- **The bill's requirement to calculate avoided greenhouse gas and other pollutant emissions as part of the pricing incentive for selected demand response programs will take time and may not necessarily affect the incentive.** It is currently unknown the extent to which interruptible programs reduce greenhouse gas and other pollutant emissions. While demand response programs are designed to reduce energy usage during the peak hours, they do not necessarily reduce overall energy usage. Customers in demand response programs such as interruptible tariffs may simply shift their usage to off-peak periods to continue their production processes. Thus overall energy usage does not necessarily lessen, and could actually increase. What this means is that while demand response programs certainly enable utilities to avoid using peaking units (and therefore reduce the greenhouse gas emissions from such plants), they could also create an offsetting dynamic of higher energy usage during off-peak periods which are served by baseload plants (which can also emit greenhouse gases). The Commission does not currently have enough data or analyses at this time to determine how these dynamics interact. Furthermore, the Commission currently has no data or analysis to determine how to quantify the reduction of greenhouse gases and other pollutants so that it can be used as an input in determining the appropriate price incentive. The development of appropriate data and analysis to achieve these objectives will take time.

PROGRAM BACKGROUND:

- The interruptible tariffs/programs are currently in operation in PG&E and SCE territories. The interruptible tariffs have been in existence for several years, although variations of the tariffs have recently been created. The programs are also known as "non-firm" tariffs, "I-6" and the "Base Interruptible Program (BIP)". The tariffs/programs provide either rate discounts or capacity payments to very large industrial customers who each year nominate an amount of load that they are willing to reduce when called on short notice (typically within 30 minutes). For some programs, smaller customers may participate if they aggregate their loads. The amount of the rate discount or capacity payment is based in part on the amount of load the customer is willing to reduce. Failure to reduce load when called results in a substantial penalty for the customer. Interruptible tariffs/programs are triggered by emergencies, such as a Stage 2 alert issued by the California Independent System Operator (CAISO). Currently, PG&E has approximately 300 MWs enrolled in interruptible tariffs/programs while SCE has approximately 680 MWs enrolled. SDG&E has less than 1 MW enrolled in its BIP program.

- Air conditioner cycling programs provide bill credits to participants in exchange for allowing the utility to cycle their AC unit off during critical periods, such as Stage 2 alerts. SCE has the largest program with approximately 470 MWs currently enrolled. SDG&E also has a program that includes cycling of pool pumps and water heaters, with approximately 34 MWs enrolled. PG&E is deploying its AC Cycling program this year, anticipating that it will have 5 MWs enrolled.

- There are a variety of price-responsive demand response programs that also help reduce demand. These programs are called on a day-ahead basis, and come in a variety of forms, such as critical peak pricing (very high peak energy rates on specific days) or demand bidding (customers are compensated for load they are willing to drop).

- The Commission's current policy on demand response is to continue to expand these programs because they provide greater reliability and enable the utility to avoid high wholesale energy prices. Price-responsive demand response programs continue to be the long-range focus of the Commission. Reliability programs such as interruptible tariffs and air conditioner cycling programs are also encouraged by the Commission. The Commission has several active demand response proceedings, all focused on making demand response a greater resource for this summer and future years.

LEGISLATIVE HISTORY:

N/A

FISCAL IMPACT:

None.

STATUS:

SB 428 is scheduled to be heard in the Senate Appropriations Committee on May 14, 2007. **(NOTE: THIS WILL CHANGE).**

SUPPORT/OPPOSITION: (5/11/07)

Support:	TAMCO Steel (sponsor) California Large Energy Consumers Association (sponsor)
Opposition:	Southern California Edison

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Date: May 16, 2007

BILL LANGUAGE:

BILL NUMBER: SB 428 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 10, 2007

INTRODUCED BY Senator Dutton
(Coauthor: Assembly Member Emmerson)

FEBRUARY 21, 2007

An act to amend Section 743.1 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 428, as amended, Dutton. Electrical corporations: demand reduction.

(1) The Public Utilities Act requires the Public Utilities Commission to develop a program for residential and commercial customer air-conditioning load control with the goal of contributing to the adequacy of electricity supply and helping customers reduce their electric bills in a cost-effective manner. The act authorizes the Public Utilities Commission to establish rates for public utilities regulated by the commission, including electrical corporations. The act authorizes the commission to approve contracts between an electrical corporation and its heavy industrial customers as determined by the electrical corporation, of not more than 10 years' duration, in which the electrical corporation buys from the heavy industrial customer the right to interrupt the customer's service on short notice, as determined by the commission, through a payment mechanism providing for a discounted rate for service. Under those provisions, the commission has adopted, by decision, electrical corporation programs for the interruption of power in exchange for reduced rates.

The act requires electrical corporations to continue the availability to qualified heavy industrial customers of optional interruptible or curtailable service, and requires the effective rate for interruptible or curtailable service to qualifying customers to reflect a pricing incentive for electing to operate under the interruptible or curtailable service option. The act further requires the commission to continue the availability of optional interruptible or curtailable service at least until March 31, 2002, and prohibits, until March 31, 2002, the alteration of the level of the pricing incentive for interruptible or curtailable service from the levels in effect on June 10, 1996.

This bill would require electrical corporations to ~~expand~~ *offer* optional interruptible or curtailable service programs and air-conditioning cycling programs to their customers ~~through~~ *using* pricing incentives that *are cost effective and* reflect the full range of costs avoided by the reductions in demand created by these programs. The bill would also delete the provisions requiring the commission to continue the availability of optional interruptible or curtailable service at least until March 31, 2002, and the provision prohibiting the alteration of the level of pricing incentive in effect on June 10, 1996. Because a violation of the act is a crime, this bill, by imposing new requirements on electrical corporations, would create a new crime, thereby imposing a state-mandated local program.

(2) 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) Successful implementation of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) will require substantial reductions in the emissions of greenhouse gases associated with the generation of electricity.

(b) Demand for electricity continues to grow due to a number of factors, including increased use of air-conditioning for residential and commercial applications.

(c) The growth in electricity demand results in the continued operation of older, less efficient, and significantly more polluting generating facilities, and thereby threatens to undermine the state's efforts to obtain reductions in greenhouse gas emissions associated with the generation of electricity.

(d) The state experiences very large increases in electricity demand during relatively few hours each year, requiring the continued operation of older, more polluting generation facilities and potentially the addition of new gas-fired peaking plants to meet this peak demand.

(e) The expansion and increased use of demand response programs, particularly programs like interruptible or curtailable service and air-conditioning cycling programs, would allow the state to meet peak demand while avoiding the operation of some or all of the older, more polluting generation facilities.

(f) Electrical corporations subject to the jurisdiction of the Public Utilities Commission should be encouraged by the commission to expand participation in these demand response programs through incentives for participation that adequately reflect all the benefits associated with demand reduction, including reduced emissions of greenhouse gases and other environmental benefits.

SEC. 2. Section 743.1 of the Public Utilities Code is amended to read:

743.1. (a) Electrical corporations shall ~~continue and expand the availability of optional~~ *offer optional* interruptible or curtailable service programs and air-conditioning cycling programs to their customers ~~through~~

, *using* pricing incentives for participation in these programs. These pricing incentives shall *be cost effective and* reflect the full range of costs avoided by the reductions in demand created by these programs, including the reduction in emissions of greenhouse gases and other pollutant emissions from generating facilities that would have been required to operate but for these demand reductions. ~~The programs shall be designed to attract additional customer participation.~~

(b) The commission shall direct each public utility electrical corporation to continue its efforts to reduce the rates charged heavy industrial customers to a level competitive with other states, and to do so without shifting recovery of costs to other customer classes.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.