

M e m o r a n d u m

Date: April 17, 2008

To: The Commission
(Meeting of April 24, 2008)

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

Subject: **AB 2791 (Blakeslee)-Energy: Waste Heat and Carbon Emissions Reduction Act**
As amended: April 9, 2008

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT

SUMMARY OF BILL:

AB 2791 would extend the pilot program for the on-bill financing of combined heat and power (CHP) generation systems as enacted by AB 1613, by widening the scope of customer-generators to include federal, state, and local government facilities. The AB 1613 on-bill financing pilot program was initially limited to nonprofit organizations as defined by the Internal Revenue Code.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

AB 2791 simply enlarges the scope of customer-generators eligible to participate in the AB 1613 pilot CHP generation financing program. It does not create a new program, nor does it increase the size of the AB 1613 pilot program, in MW. It is appropriate, and consistent with the State's environmental and procurement goals, to include government agencies with nonprofits for the purpose of financing these systems via on-bill savings.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Energy Division):

- AB 1613, the Waste Heat and Carbon Emissions Reduction Act, signed by Governor Schwarzenegger in October, 2007, enacted incentives for new customer-owned combined heat and power (CHP) systems meeting stringent efficiency and emissions standards. These incentives include a mandated investor-owned utility (IOU) tariff for the purchase of excess electricity from eligible CHP systems, and a pilot program, limited to nonprofit customers, for upfront on-bill financing of eligible CHP systems. AB 2791 would simply enlarge the scope of customers eligible for the AB 1613 pilot on-bill financing program, by including government agencies.
- AB 2791 would further the stated objective of AB 1613, which was “to reduce wasteful consumption of energy through improved residential, commercial, institutional, industrial, and manufacturer utilization of waste heat whenever it is cost effective, technologically feasible, and environmentally beneficial, ...”

PROGRAM BACKGROUND:

- None.

LEGISLATIVE HISTORY:

None.

FISCAL IMPACT:

None.

STATUS:

AB 2791 is pending in the Assembly Appropriations Committee. The bill was passed by the Assembly Utilities and Commerce Committee (4/7/8; vote: 12-1) and the Assembly Committee on Natural Resources (4/14/08; vote: 9-0).

SUPPORT/OPPOSITION:

Support: California Clean Distributed Generation Coalition (CCDC)

Opposition: None on file.

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BILL LANGUAGE:

BILL NUMBER: AB 2791 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 9, 2008

INTRODUCED BY Assembly Member Blakeslee

FEBRUARY 22, 2008

An act to amend Section 2842.4 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2791, as amended, Blakeslee. Energy: Waste Heat and Carbon Emissions Reduction Act.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The existing Waste Heat and Carbon Emissions Reduction Act authorizes the PUC to require an electrical corporation to purchase excess electricity, as defined, from any customer of the electrical corporation that is delivered by a combined heat and power system, as defined, that complies with the sizing, energy efficiency, and air pollution control requirements of the act. The act requires every electrical corporation to file a standard tariff with the PUC for the purchase of excess electricity from an eligible customer-generator, as defined, requires the electrical corporation to make the tariff available to eligible customer-generators within the service territory of the electrical corporation upon request, and authorizes the electrical corporation to make the terms of the tariff available in the form of a standard contract. The existing definition of an eligible customer requires that the customer of an electrical corporation use a combined heat and power system with a generating capacity of not more than 20 megawatts that is in compliance with the act's requirements and be a nonprofit organization that is exempt from taxation pursuant to a specified provision of federal law.

This bill would define an eligible customer to require that the customer of the electrical corporation use a combined heat and power system with a generating capacity of not more than 20 megawatts that is in compliance with the act's requirements and that the customer either be a nonprofit organization that is exempt from taxation or be a federal, state, or local government facility. *The bill would provide that an approval made by the Department of Finance for a state agency to purchase, lease, or otherwise acquire a combined heat and power facility financed through the pay-as-you-save program may not be made sooner than after a specified time written notification is provided to certain Members of the Legislature.*

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

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

SECTION 1. Section 2842.4 of the Public Utilities Code is amended to read:

2842.4. (a) The commission shall, for each electrical corporation, establish a pay-as-you-save pilot program for eligible customers.

(b) For the purposes of this section, an "eligible customer" means a customer of an electrical corporation that meets the following criteria:

(1) The customer uses a combined heat and power system with a generating capacity of not more than 20 megawatts that is in compliance with Section 2843.

(2) The customer is any of the following:

(A) A nonprofit organization described in Section 501(c) (3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c) (3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501 (a)).

(B) A federal, state, or local government facility.

(c) The pilot program shall enable an eligible customer to finance all of the upfront costs for the purchase and installation of a combined heat and power system by repaying those costs over time through on-bill financing at the difference between what an eligible customer would have paid for electricity and the actual savings derived for a period of up to 10 years.

(d) The commission shall ensure that the reasonable costs of the electrical corporation associated with the pilot program are recovered.

(e) All costs of the pay-as-you-save program or financing mechanisms shall be borne solely by the combined heat and power generators that use the program or financing mechanisms, and the commission shall ensure that the costs of the program are not shifted to the other customers or classes of customers of the electrical corporation.

(f) Each electric corporation shall make on-bill financing available to eligible customers until the statewide cumulative rated generating capacity from pilot program combined heat and power systems in the service territories of the three largest electrical corporations in the state reaches 100 megawatts. An electrical corporation shall only be required to participate in the pilot program until it meets its proportionate share of the 100-megawatt limitation, based on the percentage of its peak demand to the total statewide peak demand within the service territories of all electrical corporations.

(g) *An approval made by the Department of Finance for a state agency to purchase, lease, or otherwise acquire a combined heat and power facility that would be financed through the pay-as-you-save pilot program, may not be made sooner than 30 days after written notification thereof is provided to the Chairperson of the Senate Committee on Budget and Fiscal Review, the Chairperson of the Assembly Committee on Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine.*