SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Ben Hueso, Chair
2019 - 2020 Regular

Bill No:	AB 923	**Hearing Date:**	6/18/2019
Author:	Wicks		
Version:	2/20/2019 As Introduced		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Nidia Bautista		

SUBJECT: Bay Area Rapid Transit District: electricity procurement and delivery

DIGEST: This bill would expand the existing authority of the Bay Area Rapid Transit District (BART) to obtain electricity from specified sources of power by authorizing electricity purchased from an electrical corporation or marketer, as defined, and electricity purchased through a market operated by the California Independent System Operator (CAISO).

ANALYSIS:

Existing law:

1) Establishes the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations. (California Constitution, Article XII)

2) Authorizes the BART system to elect to obtain electricity from multiple sources, including (1) preference power purchased from a federal power marketing agency or its successor, (2) electricity purchased from a local publicly owned electric utility (POU), and (3) electricity generated by an eligible renewable energy resource, as defined.

3) Requires any electrical corporation that owns and operates transmission and distribution facilities that deliver electricity to BART, upon request by BART, to deliver electricity from those sources without discrimination or delay.

4) Requires the electric utility to bill BART as though all the electricity purchased were metered by a single meter at one location.

5) Provides that any lease entered into between BART and an electrical utility, for special facilities to receive power at transmission level voltages, cannot be terminated without BART's consent.

   (Public Utilities Code §701.8)

This bill:

1) Makes several findings and declarations concerning the role of the BART system to reduce vehicle trips, roadway congestion, air pollution and greenhouse gas emissions and the cost of electricity to BART's operating costs, and the BART Board of Directors adopted Wholesale Electricity Portfolio Policy.

2) Authorizes BART to obtain electricity from an electrical corporation or marketer and through a market operated by the CAISO in a manner consistent with the existing authorization to procure electricity from a local POU, federal power marketing agency, and an eligible renewable energy resource.

Background

About BART. BART is a regional light rail system that includes 121 route miles of track and 48 stations serving communities in the Bay Area region, including the counties of Alameda, Contra Costa, San Francisco, and San Mateo. BART averages nearly 400,000 weekday trips, each trip averaging a distance of 14 miles. The BART system provides nearly half of all transit passenger miles travelled in the Bay Area. In calendar year 2018, BART ridership totaled over 120 million passenger rides. However, with a system expansion to Silicon Valley underway, as well as, various projects to increase core capacity and system frequency, BART ridership is projected to grow materially over the next decade.

BART's electricity consumption. The majority of the BART system operates on electricity. Specifically, the BART system procures electricity from a local POU, the Northern California Power Agency (NCPA), a federal agency known as the Western Area Power Administration (WAPA), a 2.5 megawatts (MW) solar facility through an NCPA arrangement, and net energy metered solar electric generation located at three BART facilities. BART consumes approximately 400,000 MW hours of electricity each year, making it one of Northern California's largest end users. According to BART, electricity is consumed at a cost of over $44 million, electricity is BART's second largest operating expense following labor. Moving forward, BART's electric needs are projected to grow approximately 20 percent in the next decade due to system expansion to serve Silicon Valley and increase service frequency.

BART electricity self-procurement. Up until the passage of SB 184 (Kopp, Chapter 681, Statutes of 1995), BART was procuring all its energy from the region's investor-owned utility, Pacific, Gas and Electric (PG&E). SB 184 allowed BART to procure electricity directly from the federal power marketing authority. Under the federal Reclamation Project Act of 1939, BART qualifies as a preference entity to purchase and receive hydropower from the Central Valley Project (CVP). Additionally, SB 1838 (Kopp, Chapter 206, Statutes of 1998) exempts BART District's preference from federal power delivery from statutes and CPUC regulations governing direct access transactions related to electric power. While the bills provided for BART to diversify its sources of energy, they also require BART to compensate PG&E for the use of its transmission and distributed network under tariffs regulated by the Federal Energy Regulatory Commission (FERC) and the CPUC. SB 1201 (Torlakson, Chapter 613, Statutes of 2004) expanded BART's authority to procure electricity from local POUs. The passage of SB 502 (Leno, Chapter 146, Statutes of 2016) further expanded BART's authority to procure electricity from eligible renewable energy resources, at the time, BART suggested the explicit mention in statute was necessary to help it achieve its self-imposed carbon reduction goals. The culmination of these multiple piecemeal changes to BART's electricity procurement authority resulted in wholesale procurement comprised of "federal preference power" sourced from WAPA, various small RPS-eligible renewables (e.g., onsite solar, Gridley Solar Project and Lake Nacimiento Hydroelectric Project), specified source low-and no-GHG imports purchased from NCPA and power purchased through both NCPA and PG&E.

BART seeks load serving entity (LSE) designation at CAISO. In 2016, BART assumed responsibilities for scheduling its own load and supply into the CAISO wholesale markets under a new transmission agreement with PG&E. The previous transmission agreement had expired and PG&E was no longer willing to handle BART's scheduling and hedging in the CAISO market. The previous transmission agreement with PG&E was considered a legacy agreement that would afford some congestion price benefits in a new transmission agreement. However, since PG&E was no longer serving as the LSE for BART, BART sought to be designated as its own LSE and benefit from the congestion pricing that the legacy transmission agreement would provide in comparison to the higher prices BART would otherwise need to pay. In order to achieve access to market products in an effort to hedge its risk, BART sought and received recognition as a LSE in 2017 under a revised definition in the CAISO tariff, with approval from FERC. This made BART one of two LSEs participating in the CAISO markets exclusively to serve its own end-use, the other entity is the Department of Water Resources. BART's arrangement includes NCPA handling its scheduling in the CAISO wholesale market.

BART clean energy goals. Coinciding with the CAISO LSE designation the BART Board of Directors adopted new energy commitments under the Wholesale Electricity Procurement Policy in 2017, which establishes the dual goals of low and stable BART operating costs and maximizes the use of low-carbon, zero-carbon, and renewable electricity supply. The adopted goals include procurement of 50 percent RPS-eligible renewable supply by 2025, 100 percent GHG-free electric supply by 2035, and 100 percent RPS-eligible renewable supply by 2045.

Comments

AB 923. This bill would amend the statute to grant BART the same access to the same CAISO wholesale market resources as other participating LSEs. The sponsor argues that such a change will allow BART to balance its intermittent renewable electric supply, which will be a critical step for the system beginning in 2021, when two of BART's large intermittent renewable resources contracts – a 45 MW solar project, and a 62 MW wind project – come online, accounting for approximately 90 percent of BART's total electrical supply.

Train leaves station, but returns. As noted above, BART has on multiple occasions sought special statutory provisions to authorize it to procure its own electricity. Unlike other bundled customers, or those served by either community choice aggregators (CCAs) or direct access providers, BART has been granted unique authority in the statute to procure its own electricity. The train left the station on this authority with passage of the initial legislation in 1995 that authorized BART to procure energy from a federal power marketer. However, the train has returned repeatedly to expand that authority to procure additional resources. This bill would be the fifth such measure to expand BART's special authority in the statute.

LSE by name? Interestingly, the petition for the LSE definition change (including the CAISO's own definition change and the petition for approval from FERC) seems to have made no mention of the state statutory limitations on BART's procurement sources. It is unclear how BART, or the CAISO, expected BART to participate in the CAISO wholesale market with the current statutory limitations. In conversations with the CAISO, the CAISO notes its inability to police BART's activities in the market as those would need to be overseen by BART directly. However, its ability to procure wholesale power from a federal power marketer or POU was sufficient for CAISO to petition to designate BART as an LSE.

Need for changes. BART's current authority to self-procure its electricity supply does not allow for direct purchase of electricity from CAISO wholesale markets and various other sources of electric generation, including non-RPS hydroelectric generation or specified low or no-GHG imports from outside California. BART argues that the current limitations result in BART needing to procure short-term energy products that mimic CAISO market energy to ensure it is fully supplied by authorized sources in each 60-minute day-ahead scheduling interval. BART suggests that these resources are above the costs of what would otherwise be available in the CAISO market. Despite assuming the responsibilities and obligations of a LSE within the CAISO, BART's sources of electricity supply remain statutorily limited to those authorized by existing law: federal power marketing agency, locally owned electric utility and eligible renewable energy resources. However, BART's contracts with NCPA are scheduled to expire in 2021. At that point, the new solar and wind contracts would commence. In 2025, BART's contract with WAPA for federal preference power (large hydroelectricity) will expire. BART also anticipates increased energy load around that time. As such, BART seeks to have other large hydroelectricity from other sellers and wholesale market purchases for unspecified power to help it integrate the solar and wind intermittent resources.

LSE responsibilities? BART and the CAISO have attempted to designate BART as a LSE for purposes of participation in the wholesale electricity markets. However, the LSE designation does not extend to other LSE requirements for the purposes of the state. In general, most LSEs in the state – electrical corporations, CCAs, or electric service providers (ESPs) – generally must abide by compliance with: the RPS (including review by the CEC and CPUC), the requirements of the Integrated Resources Plan (IRP) including submitting plans every two years to the CPUC for review, and the resource adequacy compliance in the year-ahead and month ahead for local, system and flexible resources, to name a few. Instead the statute has authorized BART to forgo the obligations that would otherwise apply to direct access procurement.

Need for amendments. BART itself acknowledges it is one of the largest end-users of electricity in Northern California, as a result there are some LSEs that procure much less energy than BART that must comply with the requirements noted above. BART distinguishes itself as procuring only to support its own load, not as a retail seller. Noting the CAISO's inability to limit BART's participation in the wholesale market, it seems to be impractical to limit BART's activities. However, the Legislature may ask whether the continued special authority is merited largely because of BART's operations as a transit agency, recognizing these provisions are not afforded to other transit agencies. *To ensure BART's participation in the wholesale markets is limited to integrating its resources, the author and committee may wish to amend this bill to explicitly state the Legislature's intent that BART not become a retail seller or energy marketer, require BART to participate in the power content label requirements as other LSEs in the state, and eliminate the language in the bill to allow BART to procure energy from an electricity market other than the CAISO.*

Prior/Related Legislation

SB 502 (Leno, Chapter 146, Statues of 2016) authorized BART to purchase electricity generated by renewable energy resources as defined in California's RPS.

SB 1201 (Torlakson, Chapter 613, Statutes of 2004) authorized BART to receive power from a POU without discrimination or delay from any electrical corporation.

SB 1838 (Kopp, Chapter 206, Statutes of 1998) exempted BART District's preference from federal power delivery from statutes and CPUC regulations governing direct access transactions related to electric power.

SB 184 (Kopp, Chapter 681, Statutes of 1995) authorized BART to receive power from a federal power marketing agency or its successor without discrimination or delay from any electrical corporation.

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

SUPPORT:

San Francisco Bay Area Rapid Transit District (Sponsor)
Northern California Power Agency

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

> BART is a critical transportation system in the San Francisco Bay Area that carries approximately 420,000 passengers each weekday. During peak hours, BART transports more people from the East Bay to San Francisco than the Bay Bridge. In 2017, the BART Board adopted a Wholesale Electricity Policy, which identifies clear objectives, including measurable commitments to clean energy that are aligned with state goals. The agency's clean energy commitments include a 100 percent greenhouse gas free electric supply by 2035, a goal that puts it ten years ahead of the state's goal.
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> AB 923 will help BART meet these goals by giving them the full authority needed to balance the system's intermittent renewable electric supply. This will be a critical step for BART beginning in 2021 when two of BART's large intermittent renewable sources – a 45 MW solar project, and a 62 MW wind project – come online. These new projects will account for

approximately 90 percent of BART's total electrical supply. AB 923 will also help provide access low cost renewable energy sources through CAISO's wholesale markets.

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