

SENATE BILL

No. 2

Introduced by Senators Simitian, Kehoe, and Steinberg

February 1, 2011

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 of, to add Section 25519.5 to, and to add and repeal Section 25741.5 of, the Public Resources Code, and to amend Sections 399.11, 399.12, 399.20, and 454.5 of, to amend, renumber, and add Sections 399.13 and 399.16 of, to add Sections 399.18, 399.19, 399.26, 399.30, 399.31, and 1005.1 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, to repeal Section 387 of, and to repeal and add Sections 399.14, 399.15, and 399.17 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as introduced, Simitian. Energy: renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and

development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). The act requires the commission to certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The act requires the commission to transmit a copy of an application for certification of a site and related facility to, among other entities, each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

This bill would require an applicant to inform the United States Department of Defense of a proposed project and that an application will be filed with the commission if the site and related facility specified in the application are proposed to be located within 1,000 feet of a military installation, or lie within special use airspace or beneath a low-level flight path, as defined.

Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury, and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would revise certain terms used in the program, and revise certain eligibility criteria for a renewable electrical generation facility, as defined, pursuant to the program.

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at

least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, 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. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, by a specified amount.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, and 33% by December 31, 2020. The bill would require the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all subsequent years. The bill, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, would require that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified. The bill would require the PUC to waive enforcement of the renewables portfolio standard procurement requirement if the PUC finds that the retail seller has demonstrated certain conditions exist that are beyond the control of the retail seller and will prevent compliance, and has taken all reasonable actions under its control to achieve compliance. The bill would require the PUC to direct each electrical corporation to annually

prepare a renewable energy procurement plan containing specified matters and require, to the extent feasible, that the plan be proposed, reviewed, and adopted by the PUC as part of, and pursuant to, a general procurement plan process. The bill would require the PUC to direct all retail sellers to prepare and submit an annual compliance report. The bill would delete the existing market price referent provisions, and instead require the PUC to establish a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard. The bill would require that by January 1, 2016, the PUC report to the Legislature assessing whether each electrical corporation can achieve a 33% renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the cost limitations. The bill would provide that, if the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation is authorized to refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the electrical corporation's general procurement plan. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers. The bill would revise the definitions of certain terms for purposes of the RPS program, would recast certain provisions applicable only to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside of California, and would add provisions applicable to certain smaller electrical corporations. The bill would authorize an electrical corporation to apply to the PUC for approval to construct, own, and operate an eligible renewable energy resource, and would require the PUC to approve the application if certain conditions are met, until electrical corporation owned and operated resources provide 8.25% of the corporation's anticipated retail sales.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) 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.

This bill would repeal this provision, and instead generally make the requirements of the RPS program applicable to local publicly owned electric utilities, except that the utility's governing board would be responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities would be given to the Energy Commission and State Air Resources Board, instead of the PUC. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(4) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations by July 1, 2011, specifying procedures for enforcement of the RPS requirements that include a public process under which the Energy Commission is authorized to issue a notice of violation and correction with respect to a local publicly owned electric utility and for referral to the State Air Resources Board for penalties imposed pursuant to the California Global Warming Solutions Act of 2006 or other laws if that act is suspended or repealed. This bill would revise the definition of renewable energy credit. The bill would require the Energy Commission, by June 30, 2011, to study and provide a report to the Legislature that analyzes run-of-river hydroelectric generating facilities, as defined, in British Columbia, including whether these facilities are, or should be, included as renewable electrical generation facilities for purposes of the Renewable Energy Resources Program administered by the Energy Commission or eligible renewable energy resources for purposes of the RPS program.

(5) Existing law requires the PUC, by February 1 of each year, to prepare and submit to the Governor and the Legislature a written report on the costs of programs and activities conducted by an electrical corporation or gas corporation that have more than a specified number of customers in California.

This bill would require the PUC, by February 1 of each year, to prepare and submit to the policy and fiscal committees of the Legislature a report on (A) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (B) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (C) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (D) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (E) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (F) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, (G) any changes in the prior year in load serviced by an electrical corporation, and (H) the efforts each electrical corporation is taking to recruit and train employees to ensure an adequately trained and available workforce.

(6) The bill would require the PUC, by July 1, 2011, to determine the effective load carrying capacity of wind and solar energy resources on the electrical grid. The bill would require the PUC to use those values in establishing the contribution of those resources toward meeting specified resource adequacy requirements.

(7) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity.

This bill would require the PUC to issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances.

(8) Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.

This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(9) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO’s tariffs are required to be approved by the Federal Energy Regulatory Commission.

This bill would require the ISO and other California balancing authorities to work cooperatively to integrate and interconnect eligible renewable energy resources to the transmission grid by the most efficient means possible with the goal of minimizing the impact and cost of new transmission facilities needed to meet both reliability needs and the renewables portfolio standard procurement requirements, and to accomplish this in a manner that respects the ownership, business, and dispatch models for transmission facilities owned by electrical corporations, local publicly owned electric utilities, joint power agencies, and independent transmission companies.

(10) This bill would appropriate \$322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard.

(11) 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 specified reasons.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California Renewable Energy Resources Act.

1 SEC. 2. Section 705 is added to the Fish and Game Code, to
2 read:

3 705. (a) For purposes of this section, “eligible renewable
4 energy resources” has the same meaning as in the California
5 Renewables Portfolio Standard Program (Article 16 (commencing
6 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
7 Public Utilities Code).

8 (b) The department shall establish an internal division with the
9 primary purpose of performing comprehensive planning and
10 environmental compliance services with priority given to projects
11 involving the building of eligible renewable energy resources.

12 (c) The internal division shall ensure the timely completion of
13 plans pursuant to the Natural Community Conservation Planning
14 Act (Chapter 10 (commencing with Section 2800) of Division 3).

15 SEC. 3. Section 25519.5 is added to the Public Resources Code,
16 to read:

17 25519.5. (a) If the site and related facilities specified in the
18 application are proposed to be located within 1,000 feet of a
19 military installation, or lie within special use airspace or beneath
20 a low-level flight path, as defined in Section 21098, the applicant
21 shall inform the United States Department of Defense of the
22 proposed project and that an application will be filed with the
23 commission.

24 (b) If provided by the United States Department of Defense, the
25 applicant shall include within the application a description of its
26 consultation with the department, with regard to potential impacts
27 upon national security, including potential impacts on the land,
28 sea, and airspace identified by the United States Department of
29 Defense and its impacted service components, for conducting
30 operations and training, or for the research, development, testing,
31 and evaluation of weapons, sensors, and tactics. If the information
32 is provided after the application is filed, the applicant shall forward
33 the information upon receipt.

34 SEC. 4. Section 25740 of the Public Resources Code is
35 amended to read:

36 25740. It is the intent of the Legislature in establishing this
37 program, to increase the amount of electricity generated from
38 eligible renewable energy resources per year, so that it equals at
39 least ~~20~~ 33 percent of total retail sales of electricity in California
40 per year by December 31, ~~2010~~ 2020.

1 SEC. 5. Section 25740.5 of the Public Resources Code is
2 amended to read:

3 25740.5. (a) The commission shall optimize public investment
4 and ensure that the most cost-effective and efficient investments
5 in renewable energy resources are vigorously pursued.

6 (b) The commission’s long-term goal shall be a fully competitive
7 and self-sustaining supply of electricity generated from renewable
8 sources.

9 (c) The program objective shall be to increase, in the near term,
10 the quantity of California’s electricity generated by ~~in-state~~
11 ~~renewable electricity generation facilities~~ *renewable electrical*
12 *generation facilities located in this state*, while protecting system
13 reliability, fostering resource diversity, and obtaining the greatest
14 environmental benefits for California residents.

15 (d) An additional objective of the program shall be to identify
16 and support emerging renewable technologies in distributed
17 generation applications that have the greatest near-term commercial
18 promise and that merit targeted assistance.

19 (e) The Legislature recommends allocations among all of the
20 following:

21 (1) Rebates, buydowns, or equivalent incentives for emerging
22 renewable technologies.

23 (2) Customer education.

24 (3) Production incentives for reducing fuel costs, that are
25 confirmed to the satisfaction of the commission, at solid fuel
26 biomass energy facilities in order to provide demonstrable
27 environmental and public benefits, including improved air quality.

28 (4) Solar thermal generating resources that enhance the
29 environmental value or reliability of the electrical system and that
30 require financial assistance to remain economically viable, as
31 determined by the commission. The commission may require
32 financial disclosure from applicants for purposes of this paragraph.

33 (5) Specified fuel cell technologies, if the commission makes
34 all of the following findings:

35 (A) The specified technologies have similar or better air
36 pollutant characteristics than renewable technologies in the report
37 made pursuant to Section 25748.

38 (B) The specified technologies require financial assistance to
39 become commercially viable by reference to wholesale generation
40 prices.

1 (C) The specified technologies could contribute significantly
2 to the infrastructure development or other innovation required to
3 meet the long-term objective of a self-sustaining, competitive
4 supply of electricity generated from renewable sources.

5 (6) Existing wind-generating resources, if the commission finds
6 that the existing wind-generating resources are a cost-effective
7 source of reliable energy and environmental benefits compared
8 with other ~~in-state renewable electricity generation facilities~~
9 *renewable electrical generation facilities located in this state*, and
10 that the existing wind-generating resources require financial
11 assistance to remain economically viable. The commission may
12 require financial disclosure from applicants for the purposes of
13 this paragraph.

14 (f) Notwithstanding any other ~~provision~~ of law, moneys
15 collected for renewable energy pursuant to Article 15 (commencing
16 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the
17 Public Utilities Code shall be transferred to the Renewable
18 Resource Trust Fund. Moneys collected between January 1, 2007,
19 and January 1, 2012, shall be used for the purposes specified in
20 this chapter.

21 SEC. 6. Section 25741 of the Public Resources Code is
22 amended to read:

23 25741. As used in this chapter, the following terms have the
24 following meaning:

25 (a) ~~“Delivered” and “delivery” mean the electricity output of~~
26 ~~an in-state renewable electricity generation facility that is used to~~
27 ~~serve end-use retail customers located within the state. Subject to~~
28 ~~verification by the accounting system established by the~~
29 ~~commission pursuant to subdivision (b) of Section 399.13 of the~~
30 ~~Public Utilities Code, electricity shall be deemed delivered if it is~~
31 ~~either generated at a location within the state, or is scheduled for~~
32 ~~consumption by California end-use retail customers. Subject to~~
33 ~~criteria adopted by the commission, electricity generated by an~~
34 ~~eligible renewable energy resource may be considered “delivered”~~
35 ~~regardless of whether the electricity is generated at a different time~~
36 ~~from consumption by a California end-use customer.~~

37 (b) ~~“In-state renewable electricity~~

38 (a) *“Renewable electrical generation facility”* means a facility
39 that meets all of the following criteria:

1 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
2 geothermal, fuel cells using renewable fuels, small hydroelectric
3 generation of 30 megawatts or less, digester gas, municipal solid
4 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
5 current, and any additions or enhancements to the facility using
6 that technology.

7 (2) The facility satisfies one of the following requirements:

8 (A) The facility is located in the state or near the border of the
9 state with the first point of connection to the transmission network
10 ~~within this state and electricity produced by the facility is delivered~~
11 ~~to an in-state location of a balancing authority area primarily~~
12 ~~located within the state. For purposes of this subparagraph,~~
13 ~~“balancing authority area” has the same meaning as defined in~~
14 ~~Section 399.12 of the Public Utilities Code.~~

15 (B) The facility has its first point of interconnection to the
16 transmission network outside the state, *within the Western*
17 *Electricity Coordinating Council (WECC) service area*, and
18 satisfies all of the following requirements:

19 ~~(i) It is connected to the transmission network within the~~
20 ~~Western Electricity Coordinating Council (WECC) service~~
21 ~~territory.~~

22 ~~(ii)~~

23 ~~(i)~~ It commences initial commercial operation after January 1,
24 2005.

25 ~~(iii) Electricity produced by the facility is delivered to an in-state~~
26 ~~location.~~

27 ~~(iv)~~

28 ~~(ii)~~ It will not cause or contribute to any violation of a California
29 environmental quality standard or requirement.

30 ~~(v) If the facility is outside of the United States, it is developed~~
31 ~~and operated in a manner that is as protective of the environment~~
32 ~~as a similar facility located in the state.~~

33 ~~(vi)~~

34 ~~(iii)~~ It participates in the accounting system to verify compliance
35 with the renewables portfolio standard ~~by retail sellers~~, once
36 established by the ~~Energy Commission~~ *commission* pursuant to
37 subdivision (b) of Section ~~399.13~~ 399.25 of the Public Utilities
38 Code.

39 (C) The facility meets the requirements of clauses ~~(i), (iii), (iv),~~
40 ~~(v), and (vi)~~ *(ii) and (iii)* in subparagraph (B), but does not meet

1 the requirements of clause ~~(ii)~~ (i) of subparagraph (B) because it
 2 ~~commences~~ commenced initial operation prior to January 1, 2005,
 3 if the facility satisfies either of the following requirements:

4 (i) The electricity is from incremental generation resulting from
 5 expansion or repowering of the facility.

6 ~~(ii) The facility has been part of the existing baseline of eligible
 7 renewable energy resources of a retail seller established pursuant
 8 to paragraph (2) of subdivision (b) of Section 399.15 of the Public
 9 Utilities Code or has been part of the existing baseline of eligible
 10 renewable energy resources of a local publicly owned electric
 11 utility established pursuant to Section 387 of the Public Utilities
 12 Code.~~

13 (ii) *Electricity generated by the facility was procured by a retail
 14 seller or local publicly owned electric utility as of January 1, 2010.*

15 (3) *If the facility is outside the United States, it is developed
 16 and operated in a manner that is as protective of the environment
 17 as a similar facility located in the state.*

18 ~~(3) For the purposes of this subdivision, “solid waste
 19 conversion”~~

20 (b) *“Municipal solid waste conversion,” as used in subdivision
 21 (a), means a technology that uses a noncombustion thermal process
 22 to convert solid waste to a clean-burning fuel for the purpose of
 23 generating electricity, and that meets all of the following criteria:*

24 ~~(A)~~

25 (1) The technology does not use air or oxygen in the conversion
 26 process, except ambient air to maintain temperature control.

27 ~~(B)~~

28 (2) The technology produces no discharges of air contaminants
 29 or emissions, including greenhouse gases as defined in Section
 30 38505 of the Health and Safety Code.

31 ~~(C)~~

32 (3) The technology produces no discharges to surface or
 33 groundwaters of the state.

34 ~~(D)~~

35 (4) The technology produces no hazardous wastes.

36 ~~(E)~~

37 (5) To the maximum extent feasible, the technology removes
 38 all recyclable materials and marketable green waste compostable
 39 materials from the solid waste stream prior to the conversion

1 process and the owner or operator of the facility certifies that those
2 materials will be recycled or composted.

3 ~~(F)~~

4 (6) The facility at which the technology is used is in compliance
5 with all applicable laws, regulations, and ordinances.

6 ~~(G)~~

7 (7) The technology meets any other conditions established by
8 the commission.

9 ~~(H)~~

10 (8) The facility certifies that any local agency sending solid
11 waste to the facility diverted at least 30 percent of all solid waste
12 it collects through solid waste reduction, recycling, and
13 composting. For purposes of this paragraph, “local agency” means
14 any city, county, or special district, or subdivision thereof, which
15 is authorized to provide solid waste handling services.

16 ~~(e) “Procurement entity” means any person or corporation that
17 enters into an agreement with a retail seller to procure eligible
18 renewable energy resources pursuant to subdivision (f) of Section
19 399.14 of the Public Utilities Code.~~

20 ~~(d)~~

21 (c) “Renewable energy public goods charge” means that portion
22 of the nonbypassable system benefits charge ~~authorized~~ *required*
23 to be collected ~~and to be transferred to the Renewable Resource
24 Trust Fund to fund renewable energy~~ pursuant to the Reliable
25 Electric Service Investments Act (Article 15 (commencing with
26 Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public
27 Utilities Code).

28 ~~(e)~~

29 (d) “Report” means the report entitled “Investing in Renewable
30 Electricity Generation in California” (June 2001, Publication
31 Number P500-00-022) submitted to the Governor and the
32 Legislature by the commission.

33 ~~(f)~~

34 (e) “Retail seller” means a “retail seller” as defined in Section
35 399.12 of the Public Utilities Code.

36 SEC. 7. Section 25741.5 is added to the Public Resources Code,
37 to read:

38 25741.5. (a) By June 30, 2011, after providing public notice
39 and an opportunity for public comment, including holding at least
40 one public workshop, and following consultation with interested

1 governmental entities, the commission shall study and provide a
2 report to the Legislature that analyzes run-of-river hydroelectric
3 generating facilities in British Columbia, including whether these
4 facilities are, or should be, included as renewable electrical
5 generation facilities pursuant to Section 25741 or eligible
6 renewable energy resources pursuant to Article 16 (commencing
7 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
8 Public Utilities Code.

9 (b) By completing the study and making recommendations, the
10 commission shall consider the effect that inclusion would have
11 upon all of the following:

12 (1) Emissions of carbon dioxide and other greenhouse gases.

13 (2) Emissions of air pollutants.

14 (3) Water quality, recreation, and fisheries.

15 (4) Any other environmental impact caused by run-of-river
16 hydroelectric generating facilities.

17 (c) The report submitted pursuant to this section shall be
18 submitted in compliance with Section 9795 of the Government
19 Code.

20 (d) Pursuant to Section 10231.5 of the Government Code, this
21 section is repealed on January 1, 2015.

22 SEC. 8. Section 25742 of the Public Resources Code is
23 amended to read:

24 25742. (a) Twenty percent of the funds collected pursuant to
25 the renewable energy public goods charge shall be used for
26 programs that are designed to achieve fully competitive and
27 self-sustaining existing ~~in-state renewable electricity generation~~
28 *renewable electrical generation facilities located in this*
29 *state*, and to secure for the state the environmental, economic, and
30 reliability benefits that continued operation of those facilities will
31 provide during the 2007–2011 investment cycle. Eligibility for
32 production incentives under this section shall be limited to those
33 technologies found eligible for funds by the commission pursuant
34 to paragraphs (3), (4), and (6) of subdivision (e) of Section 25740.5.

35 (b) Any funds used to support ~~in-state renewable electricity~~
36 ~~generation facilities~~ *renewable electrical generation facilities*
37 *located in this state* pursuant to this section shall be expended in
38 accordance with the provisions of this chapter.

39 (c) Facilities that are eligible to receive funding pursuant to this
40 section shall be registered in accordance with criteria developed

1 by the commission and those facilities shall not receive payments
2 for any electricity produced that has any of the following
3 characteristics:

4 (1) Is sold at monthly average rates equal to, or greater than,
5 the applicable target price, as determined by the commission.

6 (2) Is used onsite.

7 (d) (1) Existing facilities *located in this state* generating
8 electricity from biomass energy shall be eligible for funding and
9 otherwise considered ~~an in-state renewable electricity~~ *a renewable*
10 *electrical* generation facility only if they report to the commission
11 the types and quantities of biomass fuels used.

12 (2) The commission shall report the types and quantities of
13 biomass fuels used by each facility to the Legislature in the reports
14 prepared pursuant to Section 25748.

15 (e) Each existing facility seeking an award pursuant to this
16 section shall be evaluated by the commission to determine the
17 amount of the funds being sought, the cumulative amount of funds
18 the facility has received previously from the commission and other
19 state sources, the value of any past and current federal or state tax
20 credits, the facility's contract price for energy and capacity, the
21 prices received by similar facilities, the market value of the facility,
22 and the likelihood that the award will make the facility competitive
23 and self-sustaining within the 2007–2011 investment cycle. The
24 commission shall use this evaluation to determine the value of an
25 award to the public relative to other renewable energy investment
26 alternatives. The commission shall compile its findings and report
27 them to the Legislature in the reports prepared pursuant to Section
28 25748.

29 SEC. 9. Section 25746 of the Public Resources Code is
30 amended to read:

31 25746. (a) One percent of the money collected pursuant to the
32 renewable energy public goods charge shall be used in accordance
33 with this chapter to promote renewable energy and disseminate
34 information on renewable energy technologies, including emerging
35 renewable technologies, and to help develop a consumer market
36 for renewable energy and for small-scale emerging renewable
37 energy technologies.

38 (b) If the commission provides funding for a regional accounting
39 system to verify compliance with the renewable portfolio standard
40 by retail sellers, pursuant to subdivision (b) of Section ~~399.13~~

1 399.25 of the Public Utilities Code, the commission shall recover
2 all costs from user fees.

3 SEC. 10. Section 25747 of the Public Resources Code is
4 amended to read:

5 25747. (a) The commission shall adopt guidelines governing
6 the funding programs authorized under this chapter, at a publicly
7 noticed meeting offering all interested parties an opportunity to
8 comment. Substantive changes to the guidelines ~~may~~ shall not be
9 adopted without at least 10 days' written notice to the public. The
10 public notice of meetings required by this subdivision ~~may~~ shall
11 not be less than 30 days. Notwithstanding any other ~~provision of~~
12 law, any guidelines adopted pursuant to this chapter or Section
13 ~~399.13~~ 399.25 of the Public Utilities Code, shall be exempt from
14 the requirements of Chapter 3.5 (commencing with Section 11340)
15 of Part 1 of Division 3 of Title 2 of the Government Code. The
16 Legislature declares that the changes made to this subdivision by
17 the act amending this section during the 2002 portion of the
18 2001–02 Regular Session are declaratory of, and not a change in
19 existing law.

20 (b) Funds to further the purposes of this chapter may be
21 committed for multiple years.

22 (c) Awards made pursuant to this chapter are grants, subject to
23 appeal to the commission upon a showing that factors other than
24 those described in the guidelines adopted by the commission were
25 applied in making the awards and payments. Any actions taken
26 by an applicant to apply for, or become or remain eligible and
27 registered to receive, payments or awards, including satisfying
28 conditions specified by the commission, shall not constitute the
29 rendering of goods, services, or a direct benefit to the commission.

30 (d) An award made pursuant to this chapter, the amount of the
31 award, and the terms and conditions of the grant are public
32 information.

33 SEC. 11. Section 25751 of the Public Resources Code is
34 amended to read:

35 25751. (a) The Renewable Resource Trust Fund is hereby
36 created in the State Treasury.

37 (b) The following accounts are hereby established within the
38 Renewable Resource Trust Fund:

- 39 (1) Existing Renewable Resources Account.
40 (2) Emerging Renewable Resources Account.

1 (3) Renewable Resources Consumer Education Account.
2 (c) The money in the fund may be expended, only upon
3 appropriation by the Legislature in the annual Budget Act, for the
4 following purposes:
5 (1) The administration of this article by the state.
6 (2) The state's expenditures associated with the accounting
7 system established by the commission pursuant to subdivision (b)
8 of Section ~~399.13~~ 399.25 of the Public Utilities Code.
9 (d) That portion of revenues collected by electrical corporations
10 for the benefit of in-state operation and development of existing
11 ~~and new~~ and emerging renewable resource technologies, pursuant
12 to Section 399.8 of the Public Utilities Code, shall be transmitted
13 to the commission at least quarterly for deposit in the Renewable
14 Resource Trust Fund pursuant to Section 25740.5. After setting
15 aside in the fund money that may be needed for expenditures
16 authorized by the annual Budget Act in accordance with
17 subdivision (c), the Treasurer shall immediately deposit money
18 received pursuant to this section into the accounts created pursuant
19 to subdivision (b) in proportions designated by the commission
20 for the current calendar year. Notwithstanding Section 13340 of
21 the Government Code, the money in the fund and the accounts
22 within the fund are hereby continuously appropriated to the
23 commission without regard to fiscal ~~year~~ *years* for the purposes
24 enumerated in this chapter.
25 (e) Upon notification by the commission, the Controller shall
26 pay all awards of the money in the accounts created pursuant to
27 subdivision (b) for purposes enumerated in this chapter. The
28 eligibility of each award shall be determined solely by the
29 commission based on the procedures it adopts under this chapter.
30 Based on the eligibility of each award, the commission shall also
31 establish the need for a multiyear commitment to any particular
32 award and so advise the Department of Finance. Eligible awards
33 submitted by the commission to the Controller shall be
34 accompanied by information specifying the account from which
35 payment should be made and the amount of each payment; a
36 summary description of how payment of the award furthers the
37 purposes enumerated in this chapter; and an accounting of future
38 costs associated with any award or group of awards known to the
39 commission to represent a portion of a multiyear funding
40 commitment.

1 (f) The commission may transfer funds between accounts for
2 cashflow purposes, provided that the balance due each account is
3 restored and the transfer does not adversely affect any of the
4 accounts.

5 (g) The Department of Finance shall conduct an independent
6 audit of the Renewable Resource Trust Fund and its related
7 accounts annually, and provide an audit report to the Legislature
8 not later than March 1 of each year for which this article is
9 operative. The Department of Finance's report shall include
10 information regarding revenues, payment of awards, reserves held
11 for future commitments, unencumbered cash balances, and other
12 matters that the Director of Finance determines may be of
13 importance to the Legislature.

14 SEC. 12. Section 387 of the Public Utilities Code is repealed.

15 ~~387. (a) Each governing body of a local publicly owned electric~~
16 ~~utility shall be responsible for implementing and enforcing a~~
17 ~~renewables portfolio standard that recognizes the intent of the~~
18 ~~Legislature to encourage renewable resources, while taking into~~
19 ~~consideration the effect of the standard on rates, reliability, and~~
20 ~~financial resources and the goal of environmental improvement.~~

21 ~~(b) Each local publicly owned electric utility shall report, on an~~
22 ~~annual basis, to its customers and to the State Energy Resources~~
23 ~~Conservation and Development Commission, the following:~~

24 ~~(1) Expenditures of public goods funds collected pursuant to~~
25 ~~Section 385 for eligible renewable energy resource development.~~
26 ~~Reports shall contain a description of programs, expenditures, and~~
27 ~~expected or actual results.~~

28 ~~(2) The resource mix used to serve its customers by fuel type.~~
29 ~~Reports shall contain the contribution of each type of renewable~~
30 ~~energy resource with separate categories for those fuels that are~~
31 ~~eligible renewable energy resources as defined in Section 399.12,~~
32 ~~except that the electricity is delivered to the local publicly owned~~
33 ~~electric utility and not a retail seller. Electricity shall be reported~~
34 ~~as having been delivered to the local publicly owned electric utility~~
35 ~~from an eligible renewable energy resource when the electricity~~
36 ~~would qualify for compliance with the renewables portfolio~~
37 ~~standard if it were delivered to a retail seller.~~

38 ~~(3) The utility's status in implementing a renewables portfolio~~
39 ~~standard pursuant to subdivision (a) and the utility's progress~~
40 ~~toward attaining the standard following implementation.~~

1 SEC. 13. Section 399.11 of the Public Utilities Code is
2 amended to read:

3 399.11. The Legislature finds and declares all of the following:

4 (a) In order to attain a target of generating 20 percent of total
5 retail sales of electricity in California from eligible renewable
6 energy resources by December 31, ~~2010, and for the purposes of~~
7 ~~increasing the diversity, reliability, public health and environmental~~
8 ~~benefits of the energy mix 2013, and 33 percent by December 31,~~
9 ~~2020,~~ it is the intent of the Legislature that the commission and
10 the State Energy Resources Conservation and Development Energy
11 Commission implement the California Renewables Portfolio
12 Standard Program described in this article.

13 ~~(b) Increasing California's reliance on eligible renewable energy~~
14 ~~resources may promote stable electricity prices, protect public~~
15 ~~health, improve environmental quality, stimulate sustainable~~
16 ~~economic development, create new employment opportunities,~~
17 ~~and reduce reliance on imported fuels.~~

18 ~~(c) The development of eligible renewable energy resources~~
19 ~~and the delivery of the electricity generated by those resources to~~
20 ~~customers in California may ameliorate air quality problems~~
21 ~~throughout the state and improve public health by reducing the~~
22 ~~burning of fossil fuels and the associated environmental impacts~~
23 ~~and by reducing in-state fossil fuel consumption.~~

24 *(b) Achieving the renewables portfolio standard through the*
25 *procurement of various electricity products from eligible renewable*
26 *energy resources is intended to provide unique benefits to*
27 *California, including all of the following, each of which*
28 *independently justifies the program:*

29 *(1) Displacing fossil fuel consumption within the state.*

30 *(2) Adding new electrical generating facilities in the*
31 *transmission network within the Western Electricity Coordinating*
32 *Council service area.*

33 *(3) Reducing air pollution in the state.*

34 *(4) Meeting the state's climate change goals by reducing*
35 *emissions of greenhouse gases associated with electrical*
36 *generation.*

37 *(5) Promoting stable retail rates for electric service.*

38 *(6) Meeting the state's need for a diversified and balanced*
39 *energy generation portfolio.*

1 (7) Assistance with meeting the state's resource adequacy
2 requirements.

3 (8) Contributing to the safe and reliable operation of the
4 electrical grid, including providing predictable electrical supply,
5 voltage support, lower line losses, and congestion relief.

6 (9) Implementing the state's transmission and land use planning
7 activities related to development of eligible renewable energy
8 resources.

9 ~~(d)~~

10 (c) The California Renewables Portfolio Standard Program is
11 intended to complement the Renewable Energy Resources Program
12 administered by the ~~State Energy Resources Conservation and~~
13 ~~Development~~ Energy Commission and established pursuant to
14 Chapter 8.6 (commencing with Section 25740) of Division 15 of
15 the Public Resources Code.

16 ~~(e)~~

17 (d) New and modified electric transmission facilities may be
18 necessary to facilitate the state achieving its renewables portfolio
19 standard targets.

20 (e) (1) Supplying electricity to California end-use customers
21 that is generated by eligible renewable energy resources is
22 necessary to improve California's air quality and public health,
23 and the commission shall ensure rates are just and reasonable,
24 and are not significantly affected by the procurement requirements
25 of this article. This electricity may be generated anywhere in the
26 interconnected grid that includes many states, and areas of both
27 Canada and Mexico.

28 (2) This article requires generating resources located outside
29 of California, but are able to supply that electricity to California
30 end-use customers, to be treated identically to generating resources
31 located within the state, without discrimination.

32 (3) California electrical corporations have already executed,
33 and the commission has approved, power purchase agreements
34 with eligible renewable energy resources located outside of
35 California that will supply electricity to California end-use
36 customers. These resources will fully count toward meeting the
37 renewables portfolio standard procurement requirements. In
38 addition, there are nearly 7,000 megawatts of additional proposed
39 renewable energy resources located outside of California that are
40 awaiting interconnection approval from the Independent System

1 *Operator. All of these resources, if procured, will count as eligible*
2 *renewable energy resources that satisfy the portfolio content*
3 *requirements of paragraph (1) of subdivision (c) of Section 399.16.*

4 SEC. 14. Section 399.12 of the Public Utilities Code is
5 amended to read:

6 399.12. For purposes of this article, the following terms have
7 the following meanings:

8 (a) “Conduit hydroelectric facility” means a facility for the
9 generation of electricity that uses only the hydroelectric potential
10 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
11 manmade conduit that is operated to distribute water for a
12 beneficial use.

13 ~~(b) “Delivered” and “delivery” have the same meaning as~~
14 ~~provided in subdivision (a) of Section 25741 of the Public~~
15 ~~Resources Code.~~

16 (b) “Balancing authority” means the responsible entity that
17 integrates resource plans ahead of time, maintains
18 load-interchange generation balance within a balancing authority
19 area, and supports interconnection frequency in real time.

20 (c) “Balancing authority area” means the collection of
21 generation, transmission, and loads within the metered boundaries
22 of the area within which the balancing authority maintains the
23 electrical load-resource balance.

24 (d) “California balancing authority” is a balancing authority
25 with control over a balancing authority area primarily located in
26 this state and operating for retail sellers and local publicly owned
27 electric utilities subject to the requirements of this article and
28 includes the Independent System Operator (ISO) and a local
29 publicly owned electric utility operating a transmission grid that
30 is not under the operational control of the ISO. A California
31 balancing authority is responsible for the operation of the
32 transmission grid within its metered boundaries which may not
33 be limited by the political boundaries of the State of California.

34 ~~(e)~~

35 (e) “Eligible renewable energy resource” means an electrical
36 generating facility that meets the definition of an ~~“in-state~~
37 ~~renewable electricity~~ “renewable electrical generation facility”
38 in Section 25741 of the Public Resources Code, subject to the
39 following limitations:

1 (1) (A) An existing small hydroelectric generation facility of
2 30 megawatts or less shall be eligible only if a retail seller or local
3 publicly owned electric utility ~~owned or procured the electricity~~
4 *from the facility as of December 31, 2005. A small hydroelectric*
5 *generation unit with a nameplate capacity not exceeding 40*
6 *megawatts that is operated as part of a water supply or conveyance*
7 *system is an eligible renewable energy resource if the retail seller*
8 *or local publicly owned electric utility procured the electricity*
9 *from the facility as of December 31, 2005. A new hydroelectric*
10 *facility that commences generation of electricity after December*
11 *31, 2005, is not an eligible renewable energy resource if it will*
12 *cause an adverse impact on instream beneficial uses or cause a*
13 *change in the volume or timing of streamflow.*

14 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
15 facility of 30 megawatts or less that commenced operation before
16 January 1, 2006, is an eligible renewable energy resource. A
17 conduit hydroelectric facility of 30 megawatts or less that
18 commences operation after December 31, 2005, is an eligible
19 renewable energy resource so long as it does not cause an adverse
20 impact on instream beneficial uses or cause a change in the volume
21 or timing of streamflow.

22 (C) *A facility approved by the governing board of a local*
23 *publicly owned electric utility prior to June 1, 2010, for*
24 *procurement to satisfy renewable energy procurement obligations*
25 *adopted pursuant to former Section 387, shall be certified as an*
26 *eligible renewable energy resource by the Energy Commission*
27 *pursuant to this article, if the facility is a “renewable electrical*
28 *generation facility” as defined in Section 25741 of the Public*
29 *Resources Code.*

30 (2) A facility engaged in the combustion of municipal solid
31 waste shall not be considered an eligible renewable energy resource
32 unless it is located in Stanislaus County and was operational prior
33 to September 26, 1996.

34 ~~(d) “Procure” means to acquire through ownership or contract.~~
35 ~~For purposes of meeting the renewables portfolio standard~~
36 ~~procurement requirements, a retail seller or local publicly owned~~
37 ~~electric utility may procure either delivered electricity generated~~
38 ~~by an eligible renewable energy resource that it owns or for which~~
39 ~~it has entered into an electricity purchase agreement. Nothing in~~
40 ~~this article is intended to imply that the purchase of electricity from~~

1 ~~third parties in a wholesale transaction is the preferred method of~~
2 ~~fulfilling a retail seller’s obligation to comply with this article or~~
3 ~~the obligation of a local publicly owned electric utility to meet its~~
4 ~~renewables portfolio standard implemented pursuant to Section~~
5 ~~387.~~

6 (f) “Procure” means to acquire through ownership or contract.

7 (g) “Procurement entity” means any person or corporation
8 authorized by the commission to enter into contracts to procure
9 eligible renewable energy resources on behalf of customers of a
10 retail seller pursuant to subdivision (f) of Section 399.13.

11 (e)

12 (h) (1) “Renewable energy credit” means a certificate of proof
13 associated with the generation of electricity from an eligible
14 renewable energy resource, issued through the accounting system
15 established by the Energy Commission pursuant to Section ~~399.13~~
16 ~~399.25~~, that one unit of electricity was generated and delivered by
17 an eligible renewable energy resource.

18 (2) “Renewable energy credit” includes all renewable and
19 environmental attributes associated with the production of
20 electricity from the eligible renewable energy resource, except for
21 an emissions reduction credit issued pursuant to Section 40709 of
22 the Health and Safety Code and any credits or payments associated
23 with the reduction of solid waste and treatment benefits created
24 by the utilization of biomass or biogas fuels.

25 (3) ~~No~~(A) An electricity generated by an eligible renewable
26 energy resource attributable to the use of nonrenewable fuels,
27 beyond a de minimis quantity used to generate electricity in the
28 same process through which the facility converts renewable fuel
29 to electricity, shall *not* result in the creation of a renewable energy
30 credit. The Energy Commission shall set the de minimis quantity
31 of nonrenewable fuels for each renewable energy technology at a
32 level of no more than 2 percent of the total quantity of fuel used
33 by the technology to generate electricity. The Energy Commission
34 may adjust the de minimis quantity for an individual facility, up
35 to a maximum of 5 percent, if it finds that all of the following
36 conditions are met:

37 (A)

38 (i) The facility demonstrates that the higher quantity of
39 nonrenewable fuel will lead to an increase in generation from the

1 eligible renewable energy facility that is significantly greater than
2 generation from the nonrenewable fuel alone.

3 ~~(B)~~

4 (ii) The facility demonstrates that the higher quantity of
5 nonrenewable fuels will reduce the variability of its electrical
6 output in a manner that results in net environmental benefits to the
7 state.

8 ~~(C)~~

9 (iii) The higher quantity of nonrenewable fuel is limited to either
10 natural gas or hydrogen derived by reformation of a fossil fuel.

11 (B) *Electricity generated by a small hydroelectric generation*
12 *facility shall not result in the creation of a renewable energy credit*
13 *unless the facility meets the requirements of subparagraph (A) of*
14 *paragraph (1) of subdivision (e).*

15 (C) *Electricity generated by a conduit hydroelectric generation*
16 *facility shall not result in the creation of a renewable energy credit*
17 *unless the facility meets the requirements of subparagraph (B) of*
18 *paragraph (1) of subdivision (e).*

19 (D) *Electricity generated by a facility engaged in the combustion*
20 *of municipal solid waste shall not result in the creation of a*
21 *renewable energy credit unless the facility meets the requirements*
22 *of paragraph (2) of subdivision (e).*

23 ~~(F)~~

24 (i) “Renewables portfolio standard” means the specified
25 percentage of electricity generated by eligible renewable energy
26 resources that a retail seller *or a local publicly owned electric*
27 *utility* is required to procure pursuant to this article ~~or the obligation~~
28 ~~of a local publicly owned electric utility to meet its renewables~~
29 ~~portfolio standard implemented pursuant to Section 387.~~

30 ~~(g)~~

31 (j) “Retail seller” means an entity engaged in the retail sale of
32 electricity to end-use customers located within the state, including
33 any of the following:

34 (1) An electrical corporation, as defined in Section 218.

35 (2) A community choice aggregator. The commission shall
36 institute a rulemaking to determine the manner in which a
37 community choice aggregator will participate in the renewables
38 portfolio standard program subject to the same terms and conditions
39 applicable to an electrical corporation.

1 (3) An electric service provider, as defined in Section 218.3,
2 for all sales of electricity to customers beginning January 1, 2006.
3 The commission shall institute a rulemaking to determine the
4 manner in which electric service providers will participate in the
5 renewables portfolio standard program. The electric service
6 provider shall be subject to the same terms and conditions
7 applicable to an electrical corporation pursuant to this article.
8 ~~Nothing in this~~ *This paragraph shall does not* impair a contract
9 entered into between an electric service provider and a retail
10 customer prior to the suspension of direct access by the commission
11 pursuant to Section 80110 of the Water Code.

12 (4) “Retail seller” does not include any of the following:

13 (A) A corporation or person employing cogeneration technology
14 or producing electricity consistent with subdivision (b) of Section
15 218.

16 (B) The Department of Water Resources acting in its capacity
17 pursuant to Division 27 (commencing with Section 80000) of the
18 Water Code.

19 (C) A local publicly owned electric utility.

20 (k) “WECC” means the *Western Electricity Coordinating*
21 *Council of the North American Electric Reliability Corporation,*
22 *or a successor to either corporation.*

23 SEC. 15. Section 399.13 of the Public Utilities Code is
24 amended and renumbered to read:

25 ~~399.13.~~

26 399.25. The Energy Commission shall do all of the following:

27 (a) Certify eligible renewable energy resources that it determines
28 meet the criteria described in subdivision ~~(b)~~ (e) of Section 399.12.

29 (b) Design and implement an accounting system to verify
30 compliance with the renewables portfolio standard by retail sellers
31 *and local publicly owned electric utilities*, to ensure that electricity
32 generated by an eligible renewable energy resource is counted
33 only once for the purpose of meeting the renewables portfolio
34 standard of this state or any other state, to certify renewable energy
35 credits produced by eligible renewable energy resources, and to
36 verify retail product claims in this state or any other state. In
37 establishing the guidelines governing this accounting system, the
38 Energy Commission shall collect data from electricity market
39 participants that it deems necessary to verify compliance of retail
40 sellers *and local publicly owned electric utilities*, in accordance

1 with the requirements of this article and the California Public
2 Records Act (Chapter 3.5 (commencing with Section 6250) of
3 Division 7 of Title 1 of the Government Code). In seeking data
4 from electrical corporations, the Energy Commission shall request
5 data from the commission. The commission shall collect data from
6 electrical corporations and remit the data to the Energy
7 Commission within 90 days of the request.

8 (c) Establish a system for tracking and verifying renewable
9 energy credits that, through the use of independently audited data,
10 verifies the generation ~~and delivery~~ of electricity associated with
11 each renewable energy credit and protects against multiple counting
12 of the same renewable energy credit. The Energy Commission
13 shall consult with other western states and with the ~~Western~~
14 ~~Electricity Coordinating Council~~ *WECC* in the development of
15 this system.

16 (d) Certify, for purposes of compliance with the ~~renewable~~
17 *renewables* portfolio standard requirements by a retail seller, the
18 eligibility of renewable energy credits associated with ~~deliveries~~
19 ~~of electricity by an eligible renewable energy resource to resources~~
20 *procured* by a local publicly owned electric utility, if the Energy
21 Commission determines that ~~the following conditions have been~~
22 *satisfied: all of the conditions of Section 399.31 have been met.*

23 ~~(1) The local publicly owned electric utility that is procuring~~
24 ~~the electricity is in compliance with the requirements of Section~~
25 ~~387.~~

26 ~~(2) The local publicly owned electric utility has established an~~
27 ~~annual renewables portfolio standard target comparable to those~~
28 ~~applicable to an electrical corporation, is procuring sufficient~~
29 ~~eligible renewable energy resources to satisfy the targets, and will~~
30 ~~not fail to satisfy the targets in the event that the renewable energy~~
31 ~~credit is sold to another retail seller.~~

32 SEC. 16. Section 399.13 is added to the Public Utilities Code,
33 to read:

34 399.13. (a) (1) The commission shall direct each electrical
35 corporation to annually prepare a renewable energy procurement
36 plan that includes the matter in paragraph (5), to satisfy its
37 obligations under the renewables portfolio standard. To the extent
38 feasible, this procurement plan shall be proposed, reviewed, and
39 adopted by the commission as part of, and pursuant to, a general
40 procurement plan process. The commission shall require each

1 electrical corporation to review and update its renewable energy
2 procurement plan as it determines to be necessary.

3 (2) Every electrical corporation that owns electrical transmission
4 facilities shall annually prepare, as part of the Federal Energy
5 Regulatory Commission Order 890 process, and submit to the
6 commission, a report identifying any electrical transmission
7 facility, upgrade, or enhancement that is reasonably necessary to
8 achieve the renewables portfolio standard procurement
9 requirements of this article. Each report shall look forward at least
10 five years and, to ensure that adequate investments are made in a
11 timely manner, shall include a preliminary schedule when an
12 application for a certificate of public convenience and necessity
13 will be made, pursuant to Chapter 5 (commencing with Section
14 1001), for any electrical transmission facility identified as being
15 reasonably necessary to achieve the renewable energy resources
16 procurement requirements of this article. Each electrical
17 corporation that owns electrical transmission facilities shall ensure
18 that project-specific interconnection studies are completed in a
19 timely manner.

20 (3) The commission shall direct each retail seller to prepare and
21 submit an annual compliance report that includes all of the
22 following:

23 (A) The current status and progress made during the prior year
24 toward procurement of eligible renewable energy resources as a
25 percentage of retail sales, including, if applicable, the status of any
26 necessary siting and permitting approvals from federal, state, and
27 local agencies for those eligible renewable energy resources
28 procured by the retail seller, and the current status of compliance
29 with the portfolio content requirements of subdivision (c) of
30 Section 399.16, including procurement of eligible renewable energy
31 resources located outside the state and within the WECC and
32 unbundled renewable energy credits.

33 (B) If the retail seller is an electrical corporation, the current
34 status and progress made during the prior year toward construction
35 of, and upgrades to, transmission and distribution facilities and
36 other electrical system components it owns to interconnect eligible
37 renewable energy resources and to supply the electricity generated
38 by those resources to load, including the status of planning, siting,
39 and permitting transmission facilities by federal, state, and local
40 agencies.

1 (C) Recommendations to remove impediments to making
2 progress toward achieving the renewable energy resources
3 procurement requirements established pursuant to this article.

4 (4) The commission shall adopt, by rulemaking, all of the
5 following:

6 (A) A process that provides criteria for the rank ordering and
7 selection of least-cost and best-fit eligible renewable energy
8 resources to comply with the California Renewables Portfolio
9 Standard Program obligations on a total cost basis. This process
10 shall take into account all of the following:

11 (i) Estimates of indirect costs associated with needed
12 transmission investments and ongoing electrical corporation
13 expenses resulting from integrating and operating eligible
14 renewable energy resources.

15 (ii) The cost impact of procuring the eligible renewable energy
16 resources on the electrical corporation’s electricity portfolio.

17 (iii) The viability of the project to construct and reliably operate
18 the eligible renewable energy resource, including the developer’s
19 experience, the feasibility of the technology used to generate
20 electricity, and the risk that the facility will not be built, or that
21 construction will be delayed, with the result that electricity will
22 not be supplied as required by the contract.

23 (iv) Workforce recruitment, training, and retention efforts,
24 including the employment growth associated with the construction
25 and operation of eligible renewable energy resources and goals
26 for recruitment and training of women, minorities, and disabled
27 veterans.

28 (B) Rules permitting retail sellers to accumulate, beginning
29 January 1, 2011, excess procurement in one compliance period to
30 be applied to any subsequent compliance period. The rules shall
31 apply equally to all retail sellers. In determining the quantity of
32 excess procurement for the applicable compliance period, the
33 commission shall deduct from actual procurement quantities, the
34 total amount of procurement associated with contracts of less than
35 10 years in duration. In no event shall electricity products meeting
36 the portfolio content of paragraph (3) of subdivision (b) of Section
37 399.16 be counted as excess procurement.

38 (C) Standard terms and conditions to be used by all electrical
39 corporations in contracting for eligible renewable energy resources,
40 including performance requirements for renewable generators. A

1 contract for the purchase of electricity generated by an eligible
2 renewable energy resource, at a minimum, shall include the
3 renewable energy credits associated with all electricity generation
4 specified under the contract. The standard terms and conditions
5 shall include the requirement that, no later than six months after
6 the commission's approval of an electricity purchase agreement
7 entered into pursuant to this article, the following information
8 about the agreement shall be disclosed by the commission: party
9 names, resource type, project location, and project capacity.

10 (D) An appropriate minimum margin of procurement above the
11 minimum procurement level necessary to comply with the
12 renewables portfolio standard to mitigate the risk that renewable
13 projects planned or under contract are delayed or canceled. This
14 paragraph does not preclude an electrical corporation from
15 voluntarily proposing a margin of procurement above the
16 appropriate minimum margin established by the commission.

17 (5) Consistent with the goal of increasing California's reliance
18 on eligible renewable energy resources, the renewable energy
19 procurement plan submitted by an electrical corporation shall
20 include all of the following:

21 (A) An assessment of annual or multiyear portfolio supplies
22 and demand to determine the optimal mix of eligible renewable
23 energy resources with deliverability characteristics that may include
24 peaking, dispatchable, baseload, firm, and as-available capacity.

25 (B) Potential compliance delays related to the conditions
26 described in paragraph (4) of subdivision (b) of Section 399.15.

27 (C) A bid solicitation setting forth the need for eligible
28 renewable energy resources of each deliverability characteristic,
29 required online dates, and locational preferences, if any.

30 (D) A status update on the development schedule of all eligible
31 renewable energy resources currently under contract.

32 (E) Consideration of mechanisms for price adjustments
33 associated with the costs of key components for eligible renewable
34 energy resource projects with online dates more than 24 months
35 after the date of contract execution.

36 (F) An assessment of the risk that an eligible renewable energy
37 resource will not be built, or that construction will be delayed,
38 with the result that electricity will not be delivered as required by
39 the contract.

1 (6) In soliciting and procuring eligible renewable energy
2 resources, each electrical corporation shall offer contracts of no
3 less than 10 years duration, unless the commission approves of a
4 contract of shorter duration.

5 (7) In soliciting and procuring eligible renewable energy
6 resources for California-based projects, each electrical corporation
7 shall give preference to renewable energy projects that provide
8 environmental and economic benefits to communities afflicted
9 with poverty or high unemployment, or that suffer from high
10 emission levels of toxic air contaminants, criteria air pollutants,
11 and greenhouse gases.

12 (b) A retail seller may enter into a combination of long- and
13 short-term contracts for electricity and associated renewable energy
14 credits. The commission may authorize a retail seller to enter into
15 a contract of less than 10 years' duration with an eligible renewable
16 energy resource, if the commission has established, for each retail
17 seller, minimum quantities of eligible renewable energy resources
18 to be procured through contracts of at least 10 years' duration.

19 (c) The commission shall review and accept, modify, or reject
20 each electrical corporation's renewable energy resource
21 procurement plan prior to the commencement of renewable energy
22 procurement pursuant to this article by an electrical corporation.

23 (d) Unless previously preapproved by the commission, an
24 electrical corporation shall submit a contract for the generation of
25 an eligible renewable energy resource to the commission for review
26 and approval consistent with an approved renewable energy
27 resource procurement plan. If the commission determines that the
28 bid prices are elevated due to a lack of effective competition among
29 the bidders, the commission shall direct the electrical corporation
30 to renegotiate the contracts or conduct a new solicitation.

31 (e) If an electrical corporation fails to comply with a commission
32 order adopting a renewable energy resource procurement plan, the
33 commission shall exercise its authority pursuant to Section 2113
34 to require compliance. The commission shall enforce comparable
35 penalties on any retail seller that is not an electrical corporation
36 that fails to meet the procurement targets established pursuant to
37 Section 399.15.

38 (f) (1) The commission may authorize a procurement entity to
39 enter into contracts on behalf of customers of a retail seller for
40 electricity products from eligible renewable energy resources to

1 satisfy the retail seller’s renewables portfolio standard procurement
2 requirements. The commission shall not require any person or
3 corporation to act as a procurement entity or require any party to
4 purchase eligible renewable energy resources from a procurement
5 entity.

6 (2) Subject to review and approval by the commission, the
7 procurement entity shall be permitted to recover reasonable
8 administrative and procurement costs through the retail rates of
9 end-use customers that are served by the procurement entity and
10 are directly benefiting from the procurement of eligible renewable
11 energy resources.

12 (g) Procurement and administrative costs associated with
13 contracts entered into by an electrical corporation for eligible
14 renewable energy resources pursuant to this article and approved
15 by the commission are reasonable and prudent and shall be
16 recoverable in rates.

17 (h) Construction, alteration, demolition, installation, and repair
18 work on an eligible renewable energy resource that receives
19 production incentives pursuant to Section 25742 of the Public
20 Resources Code, including work performed to qualify, receive, or
21 maintain production incentives, are “public works” for the purposes
22 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
23 2 of the Labor Code.

24 SEC. 17. Section 399.14 of the Public Utilities Code is
25 repealed.

26 ~~399.14. (a) (1) The commission shall direct each electrical~~
27 ~~corporation to prepare a renewable energy procurement plan that~~
28 ~~includes the matter in paragraph (3), to satisfy its obligations under~~
29 ~~the renewables portfolio standard. To the extent feasible, this~~
30 ~~procurement plan shall be proposed, reviewed, and adopted by the~~
31 ~~commission as part of, and pursuant to, a general procurement~~
32 ~~plan process. The commission shall require each electrical~~
33 ~~corporation to review and update its renewable energy procurement~~
34 ~~plan as it determines to be necessary.~~

35 ~~(2) The commission shall adopt, by rulemaking, all of the~~
36 ~~following:~~

37 ~~(A) A process for determining market prices pursuant to~~
38 ~~subdivision (c) of Section 399.15. The commission shall make~~
39 ~~specific determinations of market prices after the closing date of~~

1 a competitive solicitation conducted by an electrical corporation
2 for eligible renewable energy resources.

3 (B) A process that provides criteria for the rank ordering and
4 selection of least-cost and best-fit eligible renewable energy
5 resources to comply with the annual California Renewables
6 Portfolio Standard Program obligations on a total cost basis. This
7 process shall consider estimates of indirect costs associated with
8 needed transmission investments and ongoing utility expenses
9 resulting from integrating and operating eligible renewable energy
10 resources.

11 (C) (i) Flexible rules for compliance, including rules permitting
12 retail sellers to apply excess procurement in one year to subsequent
13 years or inadequate procurement in one year to no more than the
14 following three years. The flexible rules for compliance shall apply
15 to all years, including years before and after a retail seller procures
16 at least 20 percent of total retail sales of electricity from eligible
17 renewable energy resources.

18 (ii) The flexible rules for compliance shall address situations
19 where, as a result of insufficient transmission, a retail seller is
20 unable to procure eligible renewable energy resources sufficient
21 to satisfy the requirements of this article. Any rules addressing
22 insufficient transmission shall require a finding by the commission
23 that the retail seller has undertaken all reasonable efforts to do all
24 of the following:

25 (I) Utilize flexible delivery points.

26 (II) Ensure the availability of any needed transmission capacity.

27 (III) If the retail seller is an electric corporation, to construct
28 needed transmission facilities.

29 (IV) Nothing in this subparagraph shall be construed to revise
30 any portion of Section 454.5.

31 (D) Standard terms and conditions to be used by all electrical
32 corporations in contracting for eligible renewable energy resources,
33 including performance requirements for renewable generators. A
34 contract for the purchase of electricity generated by an eligible
35 renewable energy resource shall, at a minimum, include the
36 renewable energy credits associated with all electricity generation
37 specified under the contract. The standard terms and conditions
38 shall include the requirement that, no later than six months after
39 the commission's approval of an electricity purchase agreement
40 entered into pursuant to this article, the following information

1 about the agreement shall be disclosed by the commission: party
2 names, resource type, project location, and project capacity.

3 (3) ~~Consistent with the goal of procuring the least-cost and
4 best-fit eligible renewable energy resources, the renewable energy
5 procurement plan submitted by an electrical corporation shall
6 include all of the following:~~

7 (A) ~~An assessment of annual or multiyear portfolio supplies
8 and demand to determine the optimal mix of eligible renewable
9 energy resources with deliverability characteristics that may include
10 peaking, dispatchable, baseload, firm, and as-available capacity.~~

11 (B) ~~Provisions for employing available compliance flexibility
12 mechanisms established by the commission.~~

13 (C) ~~A bid solicitation setting forth the need for eligible
14 renewable energy resources of each deliverability characteristic,
15 required online dates, and locational preferences, if any.~~

16 (4) ~~In soliciting and procuring eligible renewable energy
17 resources, each electrical corporation shall offer contracts of no
18 less than 10 years in duration, unless the commission approves of
19 a contract of shorter duration.~~

20 (5) ~~In soliciting and procuring eligible renewable energy
21 resources, each electrical corporation may give preference to
22 projects that provide tangible demonstrable benefits to communities
23 with a plurality of minority or low-income populations.~~

24 (b) ~~The commission may authorize a retail seller to enter into
25 a contract of less than 10 years' duration with an eligible renewable
26 energy resource, if the commission has established, for each retail
27 seller, minimum quantities of eligible renewable energy resources
28 to be procured either through contracts of at least 10 years' duration
29 or from new facilities commencing commercial operations on or
30 after January 1, 2005.~~

31 (e) ~~The commission shall review and accept, modify, or reject
32 each electrical corporation's renewable energy procurement plan
33 prior to the commencement of renewable procurement pursuant
34 to this article by an electrical corporation.~~

35 (d) ~~The commission shall review the results of an eligible
36 renewable energy resources solicitation submitted for approval by
37 an electrical corporation and accept or reject proposed contracts
38 with eligible renewable energy resources based on consistency
39 with the approved renewable energy procurement plan. If the
40 commission determines that the bid prices are elevated due to a~~

1 lack of effective competition among the bidders, the commission
2 shall direct the electrical corporation to renegotiate the contracts
3 or conduct a new solicitation.

4 (e) ~~If an electrical corporation fails to comply with a commission
5 order adopting a renewable energy procurement plan, the
6 commission shall exercise its authority pursuant to Section 2113
7 to require compliance. The commission shall enforce comparable
8 penalties on any other retail seller that fails to meet annual
9 procurement targets established pursuant to Section 399.15.~~

10 (f) ~~(1) The commission may authorize a procurement entity to
11 enter into contracts on behalf of customers of a retail seller for
12 deliveries of eligible renewable energy resources to satisfy annual
13 renewables portfolio standard obligations. The commission may
14 not require any person or corporation to act as a procurement entity
15 or require any party to purchase eligible renewable energy
16 resources from a procurement entity.~~

17 ~~(2) Subject to review and approval by the commission, the
18 procurement entity shall be permitted to recover reasonable
19 administrative and procurement costs through the retail rates of
20 end-use customers that are served by the procurement entity and
21 are directly benefiting from the procurement of eligible renewable
22 energy resources.~~

23 ~~(g) Procurement and administrative costs associated with
24 long-term contracts entered into by an electrical corporation for
25 eligible renewable energy resources pursuant to this article and
26 approved by the commission shall be deemed reasonable per se,
27 and shall be recoverable in rates.~~

28 ~~(h) Construction, alteration, demolition, installation, and repair
29 work on an eligible renewable energy resource that receives
30 production incentives pursuant to Section 25742 of the Public
31 Resources Code, including work performed to qualify, receive, or
32 maintain production incentives is “public works” for the purposes
33 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
34 2 of the Labor Code.~~

35 SEC. 18. Section 399.14 is added to the Public Utilities Code,
36 to read:

37 399.14. (a) (1) An electrical corporation, pursuant to Chapter
38 5 (commencing with Section 1001), and in order to meet its unmet
39 renewables portfolio standard procurement requirements, may

1 apply to the commission for approval to construct, own, and operate
2 an eligible renewable energy resource.

3 (2) If the proposed eligible renewable energy resource complies
4 with the requirements of subdivision (b), the commission shall
5 approve an application filed pursuant to paragraph (1), until the
6 commission has approved applications for eligible renewable
7 energy resources for the electrical corporation that, when
8 constructed and operating, will provide 8.25 percent of the
9 electrical corporation's anticipated retail sales by December 31,
10 2020, and thereafter.

11 (3) The commission may approve additional applications for
12 eligible renewable energy resources once the commission has
13 approved sufficient applications for eligible renewable energy
14 resources for the electrical corporation that, when constructed and
15 operating, will provide 8.25 percent of the electrical corporation's
16 anticipated retail sales by December 31, 2020, and thereafter.

17 (b) The commission shall not approve any application by an
18 electrical corporation pursuant to subdivision (a) unless both of
19 the following conditions are met:

20 (1) The eligible renewable energy resource utilizes a viable
21 technology at a reasonable cost.

22 (2) The eligible renewable energy resource provides comparable
23 or superior value to ratepayers when compared to then recent
24 contracts for generation provided by eligible renewable energy
25 resources.

26 (c) In approving any application by an electrical corporation
27 for approval to construct, own, and operate an eligible renewable
28 energy resource, the commission shall apply traditional
29 cost-of-service ratemaking. When applying traditional
30 cost-of-service ratemaking, the commission, in the certificate
31 authorizing the new construction, shall specify the maximum cost
32 determined to be reasonable and prudent for the construction of
33 the facility and the cost of initial operation of the facility. Upon a
34 filing by the electrical corporation, the commission may authorize
35 an increase in the maximum cost of construction if it determines
36 that the cost has in fact increased, that the cost increase is
37 determined to be reasonable and prudent, and that the present or
38 future public convenience or necessity require construction of the
39 project at the increased cost.

1 SEC. 19. Section 399.15 of the Public Utilities Code is
2 repealed.

3 ~~399.15. (a) In order to fulfill unmet long-term resource needs,~~
4 ~~the commission shall establish a renewables portfolio standard~~
5 ~~requiring all electrical corporations to procure a minimum quantity~~
6 ~~of electricity generated by eligible renewable energy resources as~~
7 ~~a specified percentage of total kilowatthours sold to their retail~~
8 ~~end-use customers each calendar year, subject to limits on the total~~
9 ~~amount of costs expended above the market prices determined in~~
10 ~~subdivision (c), to achieve the targets established under this article.~~

11 ~~(b) The commission shall implement annual procurement targets~~
12 ~~for each retail seller as follows:~~

13 ~~(1) Each retail seller shall, pursuant to subdivision (a), increase~~
14 ~~its total procurement of eligible renewable energy resources by at~~
15 ~~least an additional 1 percent of retail sales per year so that 20~~
16 ~~percent of its retail sales are procured from eligible renewable~~
17 ~~energy resources no later than December 31, 2010. A retail seller~~
18 ~~with 20 percent of retail sales procured from eligible renewable~~
19 ~~energy resources in any year shall not be required to increase its~~
20 ~~procurement of renewable energy resources in the following year.~~

21 ~~(2) For purposes of setting annual procurement targets, the~~
22 ~~commission shall establish an initial baseline for each retail seller~~
23 ~~based on the actual percentage of retail sales procured from eligible~~
24 ~~renewable energy resources in 2001, and to the extent applicable,~~
25 ~~adjusted going forward pursuant to Section 399.12.~~

26 ~~(3) Only for purposes of establishing these targets, the~~
27 ~~commission shall include all electricity sold to retail customers by~~
28 ~~the Department of Water Resources pursuant to Section 80100 of~~
29 ~~the Water Code in the calculation of retail sales by an electrical~~
30 ~~corporation.~~

31 ~~(4) In the event that a retail seller fails to procure sufficient~~
32 ~~eligible renewable energy resources in a given year to meet any~~
33 ~~annual target established pursuant to this subdivision, the retail~~
34 ~~seller shall procure additional eligible renewable energy resources~~
35 ~~in subsequent years to compensate for the shortfall, subject to the~~
36 ~~limitation on costs for electrical corporations established pursuant~~
37 ~~to subdivision (d).~~

38 ~~(e) The commission shall establish a methodology to determine~~
39 ~~the market price of electricity for terms corresponding to the length~~

1 of contracts with eligible renewable energy resources, in
2 consideration of the following:

3 (1) The long-term market price of electricity for fixed price
4 contracts, determined pursuant to an electrical corporation's general
5 procurement activities as authorized by the commission.

6 (2) The long-term ownership, operating, and fixed-price fuel
7 costs associated with fixed-price electricity from new generating
8 facilities.

9 (3) The value of different products including baseload, peaking,
10 and as-available electricity.

11 (d) The commission shall establish, for each electrical
12 corporation, a limitation on the total costs expended above the
13 market prices determined in subdivision (c) for the procurement
14 of eligible renewable energy resources to achieve the annual
15 procurement targets established under this article.

16 (1) The cost limitation shall be equal to the amount of funds
17 transferred to each electrical corporation by the Energy
18 Commission pursuant to subdivision (b) of Section 25743 of the
19 Public Resources Code and the 51.5 percent of the funds which
20 would have been collected through January 1, 2012, from the
21 customers of the electrical corporation based on the renewable
22 energy public goods charge in effect as of January 1, 2007.

23 (2) The above-market costs of a contract selected by an electrical
24 corporation may be counted toward the cost limitation if all of the
25 following conditions are satisfied:

26 (A) The contract has been approved by the commission and was
27 selected through a competitive solicitation pursuant to the
28 requirements of subdivision (d) of Section 399.14.

29 (B) The contract covers a duration of no less than 10 years.

30 (C) The contracted project is a new or repowered facility
31 commencing commercial operations on or after January 1, 2005.

32 (D) No purchases of renewable energy credits may be eligible
33 for consideration as an above-market cost.

34 (E) The above-market costs of a contract do not include any
35 indirect expenses including imbalance energy charges, sale of
36 excess energy, decreased generation from existing resources, or
37 transmission upgrades.

38 (3) If the cost limitation for an electrical corporation is
39 insufficient to support the total costs expended above the market
40 prices determined in subdivision (c) for the procurement of eligible

1 renewable energy resources satisfying the conditions of paragraph
2 (2), the commission shall allow the electrical corporation to limit
3 its procurement to the quantity of eligible renewable energy
4 resources that can be procured at or below the market prices
5 established in subdivision (c).

6 ~~(4) Nothing in this section prevents an electrical corporation~~
7 ~~from voluntarily proposing to procure eligible renewable energy~~
8 ~~resources at above-market prices that are not counted toward the~~
9 ~~cost limitation. Any voluntary procurement involving above-market~~
10 ~~costs shall be subject to commission approval prior to the expense~~
11 ~~being recovered in rates.~~

12 ~~(e) The establishment of a renewables portfolio standard shall~~
13 ~~not constitute implementation by the commission of the federal~~
14 ~~Public Utility Regulatory Policies Act of 1978 (Public Law~~
15 ~~95-617).~~

16 ~~(f) The commission shall consult with the Energy Commission~~
17 ~~in calculating market prices under subdivision (c) and establishing~~
18 ~~other renewables portfolio standard policies.~~

19 SEC. 20. Section 399.15 is added to the Public Utilities Code,
20 to read:

21 399.15. (a) In order to fulfill unmet long-term resource needs,
22 the commission shall establish a renewables portfolio standard
23 requiring all retail sellers to procure a minimum quantity of
24 electricity products from eligible renewable energy resources as
25 a specified percentage of total kilowatthours sold to their retail
26 end-use customers each compliance period to achieve the targets
27 established under this article. For any retail seller procuring at least
28 14 percent of retail sales from eligible renewable energy resources
29 in 2010, the deficits associated with any previous renewables
30 portfolio standard shall not be added to any procurement
31 requirement pursuant to this article.

32 (b) The commission shall implement renewables portfolio
33 standard procurement requirements only as follows:

34 (1) Each retail seller shall procure a minimum quantity of
35 eligible renewable energy resources for each of the following
36 compliance periods:

37 (A) January 1, 2011, to December 31, 2013, inclusive.

38 (B) January 1, 2014, to December 31, 2016, inclusive.

39 (C) January 1, 2017, to December 31, 2020, inclusive.

1 (2) (A) No later than January 1, 2012, the commission shall
2 establish the quantity of electricity products from eligible
3 renewable energy resources to be procured by the retail seller for
4 each compliance period. These quantities shall be established in
5 the same manner for all retail sellers and result in the same
6 percentages used to establish compliance period quantities for all
7 retail sellers.

8 (B) In establishing quantities for the compliance period from
9 January 1, 2011, to December 31, 2013, inclusive, the commission
10 shall require procurement for each retail seller equal to an average
11 of 20 percent of retail sales. For the following compliance periods,
12 the quantities shall reflect reasonable progress in each of the
13 intervening years sufficient to ensure that the procurement of
14 electricity products from eligible renewable energy resources
15 achieves 25 percent of retail sales by December 31, 2016, and 33
16 percent of retail sales by December 31, 2020. The commission
17 shall require retail sellers to procure not less than 33 percent of
18 retail sales of electricity products from eligible renewable energy
19 resources in all subsequent years.

20 (C) Retail sellers shall be obligated to procure no less than the
21 quantities associated with all intervening years by the end of each
22 compliance period. Retail sellers shall not be required to
23 demonstrate a specific quantity of procurement for any individual
24 intervening year.

25 (3) The commission shall not require the procurement of eligible
26 renewable energy resources in excess of the quantities identified
27 in paragraph (2). A retail seller may voluntarily increase its
28 procurement of eligible renewable energy resources beyond the
29 renewables portfolio standard procurement requirements.

30 (4) Only for purposes of establishing the renewables portfolio
31 standard procurement requirements of paragraph (1) and
32 determining the quantities pursuant to paragraph (2), the
33 commission shall include all electricity sold to retail customers by
34 the Department of Water Resources pursuant to Division 27
35 (commencing with Section 80000) of the Water Code in the
36 calculation of retail sales by an electrical corporation.

37 (5) The commission shall waive enforcement of this section if
38 it finds that the retail seller has demonstrated any of the following
39 conditions are beyond the control of the retail seller and will
40 prevent compliance:

1 (A) There is inadequate transmission capacity to allow for
2 sufficient electricity to be delivered from proposed eligible
3 renewable energy resource projects using the current operational
4 protocols of the Independent System Operator. In making its
5 findings relative to the existence of this condition with respect to
6 a retail seller that owns transmission lines, the commission shall
7 consider both of the following:

8 (i) Whether the retail seller has undertaken, in a timely fashion,
9 reasonable measures under its control and consistent with its
10 obligations under local, state, and federal laws and regulations, to
11 develop and construct new transmission lines or upgrades to
12 existing lines intended to transmit electricity generated by eligible
13 renewable energy resources. In determining the reasonableness of
14 a retail seller's actions, the commission shall consider the retail
15 seller's expectations for full-cost recovery for these transmission
16 lines and upgrades.

17 (ii) Whether the retail seller has taken all reasonable operational
18 measures to maximize cost-effective deliveries of electricity from
19 eligible renewable energy resources in advance of transmission
20 availability.

21 (B) Permitting, interconnection, or other circumstances that
22 delay procured eligible renewable energy resource projects, or
23 there is an insufficient supply of eligible renewable energy
24 resources available to the retail seller. In making a finding that this
25 condition prevents timely compliance, the commission shall
26 consider whether the retail seller has done all of the following:

27 (i) Prudently managed portfolio risks, including relying on a
28 sufficient number of viable projects.

29 (ii) Sought to develop one of the following: its own eligible
30 renewable energy resources, transmission to interconnect to eligible
31 renewable energy resources, or energy storage used to integrate
32 eligible renewable energy resources. This clause shall not require
33 an electrical corporation to pursue development of eligible
34 renewable energy resources pursuant to Section 399.14.

35 (iii) Procured an appropriate minimum margin of procurement
36 above the minimum procurement level necessary to comply with
37 the renewables portfolio standard to compensate for foreseeable
38 delays or insufficient supply.

1 (iv) Taken reasonable measures, under the control of the retail
2 seller, to procure cost-effective distributed generation and allowable
3 unbundled renewable energy credits.

4 (C) Unanticipated curtailment of eligible renewable energy
5 resources necessary to address the needs of a balancing authority.

6 (6) If the commission waives the compliance requirements of
7 this section, the commission shall establish additional reporting
8 requirements on the retail seller to demonstrate that all reasonable
9 actions under the control of the retail seller are taken in each of
10 the intervening years sufficient to satisfy future procurement
11 requirements.

12 (7) The commission shall not waive enforcement pursuant to
13 this section, unless the retail seller demonstrates that it has taken
14 all reasonable actions under its control, as set forth in paragraph
15 (5), to achieve full compliance.

16 (8) If a retail seller fails to procure sufficient eligible renewable
17 energy resources to comply with a procurement requirement
18 pursuant to paragraphs (1) and (2) and fails to obtain an order from
19 the commission waiving enforcement pursuant to paragraph (5),
20 the commission shall exercise its authority pursuant to Section
21 2113.

22 (9) Deficits associated with the compliance period shall not be
23 added to a future compliance period.

24 (c) The commission shall establish a limitation for each electrical
25 corporation on the procurement expenditures for all eligible
26 renewable energy resources used to comply with the renewables
27 portfolio standard. In establishing this limitation, the commission
28 shall rely on the following:

29 (1) The most recent renewable energy procurement plan.

30 (2) Procurement expenditures that approximate the expected
31 cost of building, owning, and operating eligible renewable energy
32 resources.

33 (3) The potential that some planned resource additions may be
34 delayed or canceled.

35 (d) In developing the limitation pursuant to subdivision (c), the
36 commission shall ensure all of the following:

37 (1) The limitation is set at a level that prevents disproportionate
38 rate impacts.

39 (2) The costs of all procurement credited toward achieving the
40 renewables portfolio standard are counted towards the limitation.

1 (3) Procurement expenditures do not include any indirect
2 expenses, including imbalance energy charges, sale of excess
3 energy, decreased generation from existing resources, transmission
4 upgrades, or the costs associated with relicensing any utility-owned
5 hydroelectric facilities.

6 (e) (1) No later than January 1, 2016, the commission shall
7 prepare a report to the Legislature assessing whether each electrical
8 corporation can achieve a 33-percent renewables portfolio standard
9 by December 31, 2020, and maintain that level thereafter, within
10 the adopted cost limitations. If the commission determines that it
11 is necessary to change the limitation for procurement costs incurred
12 by any electrical corporation after that date, it may propose a
13 revised cap consistent with the criteria in subdivisions (c) and (d).
14 The proposed modifications shall take effect no earlier than January
15 1, 2017.

16 (2) Notwithstanding Section 10231.5 of the Government Code,
17 the requirement for submitting a report imposed under paragraph
18 (1) is inoperative on January 1, 2021.

19 (3) A report to be submitted pursuant to paragraph (1) shall be
20 submitted in compliance with Section 9795 of the Government
21 Code.

22 (f) If the cost limitation for an electrical corporation is
23 insufficient to support the projected costs of meeting the
24 renewables portfolio standard procurement requirements, the
25 electrical corporation may refrain from entering into new contracts
26 or constructing facilities beyond the quantity that can be procured
27 within the limitation, unless eligible renewable energy resources
28 can be procured without exceeding a de minimis increase in rates,
29 consistent with the long-term procurement plan established for the
30 electrical corporation pursuant to Section 454.5.

31 (g) (1) The commission shall monitor the status of the cost
32 limitation for each electrical corporation in order to ensure
33 compliance with this article.

34 (2) If the commission determines that an electrical corporation
35 may exceed its cost limitation prior to achieving the renewables
36 portfolio standard procurement requirements, the commission shall
37 do both of the following within 60 days of making that
38 determination:

39 (A) Investigate and identify the reasons why the electrical
40 corporation may exceed its annual cost limitation.

1 (B) Notify the appropriate policy and fiscal committees of the
 2 Legislature that the electrical corporation may exceed its cost
 3 limitation, and include the reasons why the electrical corporation
 4 may exceed its cost limitation.

5 (h) The establishment of a renewables portfolio standard shall
 6 not constitute implementation by the commission of the federal
 7 Public Utility Regulatory Policies Act of 1978 (Public Law
 8 95-617).

9 SEC. 21. Section 399.16 of the Public Utilities Code is
 10 amended and renumbered to read:

11 ~~399.16.~~

12 ~~399.21.~~ (a) The commission, by rule, ~~may~~ shall authorize the
 13 use of renewable energy credits to satisfy ~~the requirements of the~~
 14 renewables portfolio standard *procurement requirements*
 15 established pursuant to this article, subject to the following
 16 conditions:

17 (1) Prior to authorizing any renewable energy credit to be used
 18 toward satisfying ~~annual procurement targets~~ *the renewables*
 19 *portfolio standard procurement requirements*, the commission and
 20 the Energy Commission shall conclude that the tracking system
 21 established pursuant to subdivision (c) of Section ~~399.13~~ 399.25,
 22 is operational, is capable of independently verifying ~~the that~~
 23 electricity *earning the credit is* generated by an eligible renewable
 24 energy resource ~~and delivered to the retail seller~~, and can ensure
 25 that renewable energy credits shall not be double counted by any
 26 seller of electricity within the service territory of the ~~Western~~
 27 ~~Electricity Coordinating Council (WECC)~~ *WECC*.

28 (2) ~~A~~ Each renewable energy credit shall be counted only once
 29 for compliance with the renewables portfolio standard of this state
 30 or any other state, or for verifying retail product claims in this state
 31 or any other state.

32 (3) ~~The electricity is delivered to a retail seller, the Independent~~
 33 ~~System Operator, or a local publicly owned electric utility.~~

34 (4)

35 (3) All revenues received by an electrical corporation for the
 36 sale of a renewable energy credit shall be credited to the benefit
 37 of ratepayers.

38 (5) ~~No renewable~~

39 (4) Renewable energy credits shall *not* be created for electricity
 40 generated pursuant to any electricity purchase contract with a retail

1 seller or a local publicly owned electric utility executed before
 2 January 1, 2005, unless the contract contains explicit terms and
 3 conditions specifying the ownership or disposition of those credits.
 4 ~~Deliveries Procurement~~ under those contracts shall be tracked
 5 through the accounting system described in subdivision (b) of
 6 ~~Section 399.13~~ 399.25 and included in the ~~baseline~~ quantity of
 7 eligible renewable energy resources of the purchasing retail seller
 8 pursuant to Section 399.15.

9 ~~(6) No renewable~~

10 (5) *Renewable* energy credits shall *not* be created for electricity
 11 generated under any electricity purchase contract executed after
 12 January 1, 2005, pursuant to the federal Public Utility Regulatory
 13 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). ~~Deliveries~~
 14 *Procurement* under the electricity purchase contracts shall be
 15 tracked through the accounting system ~~described in~~ *implemented*
 16 *by the Energy Commission pursuant to* subdivision (b) of Section
 17 ~~399.12~~ 399.25 and count toward the renewables portfolio standard
 18 ~~obligations procurement requirements~~ of the purchasing retail
 19 seller.

20 ~~(7) The commission may limit the quantity of renewable energy~~
 21 ~~credits that may be procured unbundled from electricity generation~~
 22 ~~by any retail seller, to meet the requirements of this article.~~

23 ~~(8) No electrical corporation shall be obligated to procure~~
 24 ~~renewable energy credits to satisfy the requirements of this article~~
 25 ~~in the event that the total costs expended above the applicable~~
 26 ~~market prices for the procurement of eligible renewable energy~~
 27 ~~resources exceeds the cost limitation established pursuant to~~
 28 ~~subdivision (d) of Section 399.15.~~

29 ~~(9) Any additional condition that the commission determines~~
 30 ~~is reasonable.~~

31 (6) *A renewable energy credit shall not be eligible for*
 32 *compliance with a renewables portfolio standard procurement*
 33 *requirement unless it is retired in the tracking system established*
 34 *pursuant to subdivision (c) of Section 399.25 by the retail seller*
 35 *or local publicly owned electric utility within 36 months from the*
 36 *initial date of generation of the associated electricity.*

37 (b) The commission shall allow an electrical corporation to
 38 recover the reasonable costs of purchasing ~~renewable energy~~
 39 ~~credits, selling, and administering renewable energy credit~~
 40 ~~contracts~~ in rates.

1 SEC. 22. Section 399.16 is added to the Public Utilities Code,
2 to read:

3 399.16. (a) Various electricity products from eligible renewable
4 energy resources located within the WECC transmission network
5 service area shall be eligible to comply with the renewables
6 portfolio standard procurement requirements in Section 399.15.
7 These electricity products may be differentiated by their impacts
8 on the operation of the grid in supplying electricity, as well as,
9 meeting the requirements of this article.

10 (b) Consistent with the goals of procuring the least-cost and
11 best-fit electricity products from eligible renewable energy
12 resources that meet project viability principles adopted by the
13 commission pursuant to paragraph (4) of subdivision (a) of Section
14 399.13 and that provide the benefits set forth in Section 399.11, a
15 balanced portfolio of eligible renewable energy resources shall be
16 procured consisting of the following portfolio content categories:

17 (1) Eligible renewable energy resource electricity products that
18 meet either of the following criteria:

19 (A) Have a first point of interconnection with a California
20 balancing authority, have a first point of interconnection with
21 distribution facilities used to serve end users within a California
22 balancing authority area, or are scheduled from the eligible
23 renewable energy resource into a California balancing authority
24 without substituting electricity from another source. The use of
25 another source to provide real-time ancillary services required to
26 maintain an hourly or subhourly import schedule into a California
27 balancing authority shall be permitted, but only the fraction of the
28 schedule actually generated by the eligible renewable energy
29 resource shall count toward this portfolio content category.

30 (B) Have an agreement to dynamically transfer electricity to a
31 California balancing authority.

32 (2) Firmed and shaped eligible renewable energy resource
33 electricity products providing incremental electricity and scheduled
34 into a California balancing authority.

35 (3) Eligible renewable energy resource electricity products, or
36 any fraction of the electricity generated, including unbundled
37 renewable energy credits, that do not qualify under the criteria of
38 paragraph (1) or (2).

1 (c) In order to achieve a balanced portfolio, all retail sellers
2 shall meet the following requirements for all procurement credited
3 towards each compliance period:

4 (1) Not less than 50 percent for the compliance period ending
5 December 31, 2013, 65 percent for the compliance period ending
6 December 31, 2016, and 75 percent thereafter of the eligible
7 renewable energy resource electricity products associated with
8 contracts executed after June 1, 2010, shall meet the product
9 content requirements of paragraph (1) of subdivision (b).

10 (2) Not more than 25 percent for the compliance period ending
11 December 31, 2013, 15 percent for the compliance period ending
12 December 31, 2016, and 10 percent thereafter of the eligible
13 renewable energy resource electricity products associated with
14 contracts executed after June 1, 2010, shall meet the product
15 content requirements of paragraph (3) of subdivision (b).

16 (3) Any renewable energy resources contracts executed on or
17 after June 1, 2010, not subject to the limitations of paragraph (1)
18 or (2), shall meet the product content requirements of paragraph
19 (2) of subdivision (b).

20 (d) Any contract or ownership agreement originally executed
21 prior to June 1, 2010, shall count in full towards the procurement
22 requirements established pursuant to this article, if all of the
23 following conditions are met:

24 (1) The renewable energy resource was eligible under the rules
25 in place as of the date when the contract was executed.

26 (2) For an electrical corporation, the contract has been approved
27 by the commission, even if that approval occurs after June 1, 2010.

28 (3) Any contract amendments or modifications occurring after
29 June 1, 2010, do not increase the nameplate capacity or expected
30 quantities of annual generation, or substitute a different renewable
31 energy resource. The duration of the contract may be extended if
32 the original contract specified a procurement commitment of 15
33 or more years.

34 (e) A retail seller may apply to the commission for a reduction
35 of a procurement content requirement of subdivision (c). The
36 commission may reduce a procurement content requirement of
37 subdivision (c) to the extent the retail seller demonstrates that it
38 cannot comply with that subdivision because of conditions beyond
39 the control of the retail seller as provided in paragraph (5) of
40 subdivision (b) of Section 399.15. The commission shall not, under

1 any circumstance, reduce the obligation specified in paragraph (1)
2 of subdivision (c) below 65 percent for any compliance obligation
3 after December 31, 2016.

4 SEC. 23. Section 399.17 of the Public Utilities Code is
5 repealed.

6 ~~399.17. (a) Subject to the provisions of this section, the~~
7 ~~requirements of this article apply to an electrical corporation with~~
8 ~~60,000 or fewer customer accounts in California that serves retail~~
9 ~~end-use customers outside California.~~

10 ~~(b) For an electrical corporation with 60,000 or fewer customer~~
11 ~~accounts in California that serves retail end-use customers outside~~
12 ~~California, an eligible renewable energy resource includes a facility~~
13 ~~that is located outside California, if the facility is connected to the~~
14 ~~Western Electricity Coordinating Council (WECC) transmission~~
15 ~~system, provided all of the following conditions are met:~~

16 ~~(1) The electricity generated by the facility is procured by the~~
17 ~~electrical corporation on behalf of its California customers, and is~~
18 ~~not used to fulfill renewable energy procurement requirements in~~
19 ~~other states.~~

20 ~~(2) The electrical corporation participates in, and complies with,~~
21 ~~the accounting system administered by the Energy Commission~~
22 ~~pursuant to subdivision (b) of Section 399.13.~~

23 ~~(3) The Energy Commission verifies that the electricity~~
24 ~~generated by the facility is eligible to meet the annual procurement~~
25 ~~targets of this article.~~

26 ~~(c) The commission shall determine the annual procurement~~
27 ~~targets for an electrical corporation with 60,000 or fewer customer~~
28 ~~accounts in California that serves retail end-use customers outside~~
29 ~~California, as a specified percentage of total kilowatthours sold~~
30 ~~by the electrical corporation to its retail end-use customers in~~
31 ~~California in a calendar year.~~

32 ~~(d) An electrical corporation with 60,000 or fewer customer~~
33 ~~accounts in California that serves retail end-use customers outside~~
34 ~~California, may use an integrated resource plan prepared in~~
35 ~~compliance with the requirements of another state utility regulatory~~
36 ~~commission, to fulfill the requirement to prepare a renewable~~
37 ~~energy procurement plan pursuant to this article, provided the plan~~
38 ~~meets the requirements of Sections 399.11, 399.12, 399.13, and~~
39 ~~399.14, as modified by this section.~~

1 ~~(e) Procurement and administrative costs associated with~~
2 ~~long-term contracts entered into by an electrical corporation with~~
3 ~~60,000 or fewer customer accounts in California that serves retail~~
4 ~~end-use customers outside California, for eligible renewable energy~~
5 ~~resources pursuant to this article, at or below the market price~~
6 ~~determined by the commission pursuant to subdivision (e) of~~
7 ~~Section 399.15, shall be deemed reasonable per se, and shall be~~
8 ~~recoverable in rates of the electrical corporation's California~~
9 ~~customers, provided the costs are not recoverable in rates in other~~
10 ~~states served by the electrical corporation.~~

11 SEC. 24. Section 399.17 is added to the Public Utilities Code,
12 to read:

13 399.17. (a) (1) Subject to this section, the requirements of
14 this article apply to an electrical corporation that as of January 1,
15 2010, had 60,000 or fewer customer accounts in California and
16 met either of the following requirements:

17 (A) Served retail end-use customers outside California.

18 (B) Was located in a control area that is not under the operational
19 balancing authority of the Independent System Operator or other
20 California balancing authority and receives the majority of its
21 electrical requirements from generating facilities located outside
22 of California.

23 (2) This section applies to a successor entity to all or a portion
24 of the service territory of an electrical corporation meeting the
25 requirements of paragraph (1), but only to the extent that the
26 successor entity will have 60,000 or fewer customer accounts in
27 California.

28 (b) For an electrical corporation or qualifying successor entity
29 meeting the requirements of subdivision (a), electricity products
30 from eligible renewable energy resources may be used for
31 compliance with the renewables portfolio standard procurement
32 requirements notwithstanding any procurement content limitation
33 in Section 399.16 and an eligible renewable energy resource
34 includes a facility that is located outside California, if the facility
35 is connected to the WECC transmission system, provided all of
36 the following conditions are met:

37 (1) Any portion of the electricity generated by the facility and
38 allocated by the electrical corporation or qualifying successor
39 entity for its California customers, and is not used to fulfill
40 renewable energy procurement requirements in other states.

1 (2) The electrical corporation or qualifying successor entity
2 participates in, and complies with, the accounting system
3 administered by the Energy Commission pursuant to subdivision
4 (b) of Section 399.25.

5 (3) The Energy Commission verifies that the electricity
6 generated by the facility is eligible to meet the procurement
7 requirements of this article.

8 (c) The commission shall determine the procurement
9 requirements for an electrical corporation or qualifying successor
10 entity meeting the requirements of subdivision (a) as a specified
11 percentage of total kilowatthours sold by the electrical corporation
12 to its retail end-use customers in California in a compliance period.

13 (d) An electrical corporation or qualifying successor entity
14 meeting the requirements of subdivision (a) may use an integrated
15 resource plan prepared in compliance with the requirements of
16 another state utility regulatory commission, to fulfill the
17 requirement to prepare a renewable energy procurement plan
18 pursuant to this article, provided the plan meets the requirements
19 of Sections 399.13, 399.14, and 399.25, as modified by this section.

20 (e) Procurement and administrative costs associated with
21 long-term contracts for eligible renewable energy resources
22 pursuant to this article entered into by an electrical corporation or
23 qualifying successor entity meeting the requirements of subdivision
24 (a) and approved by the commission, are reasonable and prudent
25 and shall be recoverable in rates of the electrical corporation or its
26 successor's California customers, provided the costs are not
27 recoverable in rates in other states served by the electrical
28 corporation.

29 (f) Procurement expenditures for electricity products from
30 eligible renewable energy resources pursuant to this section by an
31 electrical corporation or successor entity meeting the requirements
32 of subdivision (a) shall be subject to a limitation on procurement
33 expenditures established by the commission pursuant to subdivision
34 (c) of Section 399.15.

35 SEC. 25. Section 399.18 is added to the Public Utilities Code,
36 to read:

37 399.18. (a) This section applies to an electrical corporation
38 that as of January 1, 2010, met either of the following conditions:

1 (1) Served 30,000 or fewer customer accounts in California and
2 had issued at least four solicitations for eligible renewable energy
3 resources prior to June 1, 2010.

4 (2) Had 1,000 or fewer customer accounts in California and was
5 not connected to any transmission system or to the California
6 Independent System Operator.

7 (b) For an electrical corporation or its successor, electricity
8 products from eligible renewable energy resources may be used
9 for compliance with this article, notwithstanding any procurement
10 content limitation in Section 399.16, provided that both of the
11 following conditions are met:

12 (1) The electrical corporation or its successor participates in,
13 and complies with, the accounting system administered by the
14 Energy Commission pursuant to subdivision (b) of Section 399.25.

15 (2) The Energy Commission verifies that the electricity
16 generated by the facility is eligible to meet the requirements of
17 Section 399.15.

18 SEC. 26. Section 399.19 is added to the Public Utilities Code,
19 to read:

20 399.19. The commission, in consultation with the Energy
21 Commission, shall report to the Legislature by January 1 of every
22 even-numbered year on all of the following:

23 (a) The progress and status of procurement activities by each
24 retail seller.

25 (b) The status of permitting and siting eligible renewable energy
26 resources and transmission facilities necessary to supply electricity
27 generated to load, including the time taken to permit each eligible
28 renewable energy resource and transmission line or upgrade,
29 explanations of failures to meet permitting milestones, and
30 recommendations for improvements to expedite permitting and
31 siting processes.

32 (c) The projected ability of each electrical corporation to meet
33 the renewables portfolio standard procurement requirements under
34 the cost limitations in subdivision (d) of Section 399.15 and any
35 recommendations for revisions of those cost limitations.

36 (d) Any barriers to, and policy recommendations for, achieving
37 the renewables portfolio standard pursuant to this article.

38 SEC. 27. Section 399.20 of the Public Utilities Code is
39 amended to read:

1 399.20. (a) It is the policy of this state and the intent of the
2 Legislature to encourage electrical generation from eligible
3 renewable energy resources.

4 (b) As used in this section, “electric generation facility” means
5 an electric generation facility located within the service territory
6 of, and developed to sell electricity to, an electrical corporation
7 that meets all of the following criteria:

8 (1) Has an effective capacity of not more than three megawatts.

9 (2) Is interconnected and operates in parallel with the electrical
10 transmission and distribution grid.

11 (3) Is strategically located and interconnected to the electrical
12 transmission and distribution grid in a manner that optimizes the
13 deliverability of electricity generated at the facility to load centers.

14 (4) Is an eligible renewable energy resource.

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

21 (d) (1) The tariff shall provide for payment for every
22 kilowatthour of electricity purchased from an electric generation
23 facility for a period of 10, 15, or 20 years, as authorized by the
24 commission. The payment shall be the market price determined
25 by the commission pursuant to ~~Section 399.15~~ *paragraph (2)* and
26 shall include all current and anticipated environmental compliance
27 costs, including, but not limited to, mitigation of emissions of
28 greenhouse gases and air pollution offsets associated with the
29 operation of new generating facilities in the local air pollution
30 control or air quality management district where the electric
31 generation facility is located.

32 (2) *The commission shall establish a methodology to determine
33 the market price of electricity for terms corresponding to the length
34 of contracts with an electric generation facility, in consideration
35 of the following:*

36 (A) *The long-term market price of electricity for fixed price
37 contracts, determined pursuant to an electrical corporation’s
38 general procurement activities as authorized by the commission.*

1 (B) *The long-term ownership, operating, and fixed-price fuel*
2 *costs associated with fixed-price electricity from new generating*
3 *facilities.*

4 (C) *The value of different electricity products including*
5 *baseload, peaking, and as-available electricity.*

6 ~~(2)~~

7 (3) The commission may adjust the payment rate to reflect the
8 value of every kilowatthour of electricity generated on a
9 time-of-delivery basis.

10 ~~(3)~~

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

15 (e) An electrical corporation shall provide expedited
16 interconnection procedures to an electric generation facility located
17 on a distribution circuit that generates electricity at a time and in
18 a manner so as to offset the peak demand on the distribution circuit,
19 if the electrical corporation determines that the electric generation
20 facility will not adversely affect the distribution grid. The
21 commission shall consider and may establish a value for an electric
22 generation facility located on a distribution circuit that generates
23 electricity at a time and in a manner so as to offset the peak demand
24 on the distribution circuit.

25 (f) An electrical corporation shall make the tariff available to
26 the owner or operator of an electric generation facility within the
27 service territory of the electrical corporation, upon request, on a
28 first-come-first-served basis, until the electrical corporation meets
29 its proportionate share of a statewide cap of 750 megawatts
30 cumulative rated generation capacity served under this section and
31 Section 387.6. The proportionate share shall be calculated based
32 on the ratio of the electrical corporation’s peak demand compared
33 to the total statewide peak demand.

34 (g) The electrical corporation may make the terms of the tariff
35 available to owners and operators of an electric generation facility
36 in the form of a standard contract subject to commission approval.

37 (h) Every kilowatthour of electricity purchased from an electric
38 generation facility shall count toward meeting the electrical
39 corporation’s renewables portfolio standard annual procurement

1 targets for purposes of paragraph (1) of subdivision (b) of Section
2 399.15.

3 (i) The physical generating capacity of an electric generation
4 facility shall count toward the electrical corporation's resource
5 adequacy requirement for purposes of Section 380.

6 (j) (1) The commission shall establish performance standards
7 for any electric generation facility that has a capacity greater than
8 one megawatt to ensure that those facilities are constructed,
9 operated, and maintained to generate the expected annual net
10 production of electricity and do not impact system reliability.

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

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

23 (2) In establishing the tariffs or standard contracts pursuant to
24 this section, the commission shall consider ratepayer-funded
25 incentive payments previously received by the generation facility
26 pursuant to Section 379.6 of this code or Section 25782 of the
27 Public Resources Code. The commission shall require
28 reimbursement of any funds received from these incentive
29 programs to an electric generation facility, in order for that facility
30 to be eligible for a tariff or standard contract filed by an electrical
31 corporation pursuant to this section, unless the commission
32 determines ratepayers have received sufficient value from the
33 incentives provided to the facility based on how long the project
34 has been in operation and the amount of renewable electricity
35 previously generated by the facility.

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

39 (l) An owner or operator of an electric generation facility
40 electing to receive service under a tariff or contract approved by

1 the commission shall continue to receive service under the tariff
2 or contract until either of the following occurs:

3 (1) The owner or operator of an electric generation facility no
4 longer meets the eligibility requirements for receiving service
5 pursuant to the tariff or contract.

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

8 (m) Within 10 days of receipt of a request for a tariff pursuant
9 to this section from an owner or operator of an electric generation
10 facility, the electrical corporation that receives the request shall
11 post a copy of the request on its Internet Web site. The information
12 posted on the Internet Web site shall include the name of the city
13 in which the facility is located, but information that is proprietary
14 and confidential, including, but not limited to, address information
15 beyond the name of the city in which the facility is located, shall
16 be redacted.

17 (n) An electrical corporation may deny a tariff request pursuant
18 to this section if the electrical corporation makes any of the
19 following findings:

20 (1) The electric generation facility does not meet the
21 requirements of this section.

22 (2) The transmission or distribution grid that would serve as the
23 point of interconnection is inadequate.

24 (3) The electric generation facility does not meet all applicable
25 state and local laws and building standards; and utility
26 interconnection requirements.

27 (4) The aggregate of all electric generating facilities on a
28 distribution circuit would adversely impact utility operation and
29 load restoration efforts of the distribution system.

30 (o) Upon receiving a notice of denial from an electrical
31 corporation, the owner or operator of the electric generation facility
32 denied a tariff pursuant to this section shall have the right to appeal
33 that decision to the commission.

34 (p) In order to ensure the safety and reliability of electric
35 generation facilities, the owner of an electric generation facility
36 receiving a tariff pursuant to this section shall provide an inspection
37 and maintenance report to the electrical corporation at least once
38 every other year. The inspection and maintenance report shall be
39 prepared at the owner's or operator's expense by a
40 California-licensed contractor who is not the owner or operator of

1 the electric generation facility. A California-licensed electrician
2 shall perform the inspection of the electrical portion of the
3 generation facility.

4 (q) The contract between the electric generation facility
5 receiving the tariff and the electrical corporation shall contain
6 provisions that ensure that construction of the electric generating
7 facility complies with all applicable state and local laws and
8 building standards, and utility interconnection requirements.

9 (r) (1) All construction and installation of facilities of the
10 electrical corporation, including at the point of the output meter
11 or at the transmission or distribution grid, shall be performed only
12 by that electrical corporation.

13 (2) All interconnection facilities installed on the electrical
14 corporation's side of the transfer point for electricity between the
15 electrical corporation and the electrical conductors of the electric
16 generation facility shall be owned, operated, and maintained only
17 by the electrical corporation. The ownership, installation, operation,
18 reading, and testing of revenue metering equipment for electric
19 generating facilities shall only be performed by the electrical
20 corporation.

21 SEC. 28. Section 399.26 is added to the Public Utilities Code,
22 to read:

23 399.26. (a) In order for the state to meet the requirements of
24 the California Renewables Portfolio Standard Program,
25 substantially increased amounts of electricity generated by eligible
26 renewable energy resources must be integrated with, and
27 interconnected to, the transmission grid that is either owned by,
28 or under the operational control of, the local publicly owned
29 electric utilities and the transmission grid that is under the
30 operational control of the Independent System Operator.

31 (b) The Independent System Operator and the balancing
32 authority of each area in California shall do both of the following:

33 (1) Work cooperatively to integrate and interconnect eligible
34 renewable energy resources to the transmission grid by the most
35 efficient means possible with the goal of minimizing the impact
36 and cost of new transmission needed to meet both reliability needs
37 and the renewables portfolio standard procurement requirements.

38 (2) Accomplish the requirements of paragraph (1) in a manner
39 that respects the ownership, business, and dispatch models for
40 transmission facilities owned by electrical corporations, local

1 publicly owned electric utilities, joint powers agencies, and
2 independent transmission companies.

3 (c) The Independent System Operator shall seek any approvals
4 from the Federal Energy Regulatory Commission that are necessary
5 to accomplish the goals and requirements of this article.

6 (d) In order to maintain electric service reliability and to
7 minimize the construction of fossil fuel electrical generation
8 capacity to support the integration of intermittent renewable
9 electrical generation into the electrical grid, by July 1, 2011, the
10 commission shall determine the effective load carrying capacity
11 of wind and solar energy resources on the California electrical
12 grid. The commission shall use those effective load carrying
13 capacity values in establishing the contribution of wind and solar
14 energy resources toward meeting the resource adequacy
15 requirements established pursuant to Section 380.

16 SEC. 29. Section 399.30 is added to the Public Utilities Code,
17 to read:

18 399.30. (a) In order to fulfill unmet long-term generation
19 resource needs, each local publicly owned electric utility shall
20 adopt and implement a renewable energy resources procurement
21 plan that requires the utility to procure a minimum quantity of
22 electricity products from eligible renewable energy resources,
23 including renewable energy credits, as a specified percentage of
24 total kilowatthours sold to the utility’s retail end-use customers,
25 each compliance period, to achieve the targets of subdivision (c).

26 (b) The governing board shall implement procurement targets
27 for a local publicly owned electric utility that require the utility to
28 procure a minimum quantity of eligible renewable energy resources
29 for each of the following compliance periods:

- 30 (1) January 1, 2011, to December 31, 2013, inclusive.
- 31 (2) January 1, 2014, to December 31, 2016, inclusive.
- 32 (3) January 1, 2017, to December 31, 2020, inclusive.

33 (c) The governing board of a local publicly owned electric utility
34 shall ensure all of the following:

35 (1) The quantities of eligible renewable energy resources to be
36 procured for the compliance period from January 1, 2011, to
37 December 31, 2013, inclusive, are equal to an average of 20 percent
38 of retail sales.

39 (2) The quantities of eligible renewable energy resources to be
40 procured for all other compliance periods reflect reasonable

1 progress in each of the intervening years sufficient to ensure that
2 the procurement of electricity products from eligible renewable
3 energy resources achieves 25 percent of retail sales by December
4 31, 2016, and 33 percent of retail sales by December 31, 2020.
5 The local governing board shall require the local publicly owned
6 utilities to procure not less than 33 percent of retail sales of
7 electricity products from eligible renewable energy resources in
8 all subsequent years.

9 (3) A local publicly owned electric utility shall adopt
10 procurement requirements consistent with Section 399.16.

11 (d) The governing board of a local publicly owned electric utility
12 may adopt the following measures:

13 (1) Rules permitting the utility to apply excess procurement in
14 one compliance period to subsequent compliance periods in the
15 same manner as allowed for retail sellers pursuant to Section
16 399.13.

17 (2) Conditions that allow for delaying timely compliance
18 consistent with subdivision (b) of Section 399.15.

19 (3) Cost limitations for procurement expenditures consistent
20 with subdivision (c) of Section 399.15.

21 (e) The governing board of the local publicly owned electric
22 utility shall adopt a program for the enforcement of this article on
23 or before January 1, 2012. The program shall be adopted at a
24 publicly noticed meeting offering all interested parties an
25 opportunity to comment. Not less than 30 days' notice shall be
26 given to the public of any meeting held for purposes of adopting
27 the program. Not less than 10 days' notice shall be given to the
28 public before any meeting is held to make a substantive change to
29 the program.

30 (f) (1) Each local publicly owned electric utility shall annually
31 post notice, in accordance with Chapter 9 (commencing with
32 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
33 Code, whenever its governing body will deliberate in public on its
34 renewable energy resources procurement plan.

35 (2) Contemporaneous with the posting of the notice of a public
36 meeting to consider the renewable energy resources procurement
37 plan, the local publicly owned electric utility shall notify the
38 Energy Commission of the date, time, and location of the meeting
39 in order to enable the Energy Commission to post the information
40 on its Internet Web site. This requirement is satisfied if the local

1 publicly owned electric utility provides the uniform resource
2 locator (URL) that links to this information.

3 (3) Upon distribution to its governing body of information
4 related to its renewable energy resources procurement status and
5 future plans, for its consideration at a noticed public meeting, the
6 local publicly owned electric utility shall make that information
7 available to the public and shall provide the Energy Commission
8 with an electronic copy of the documents for posting on the Energy
9 Commission’s Internet Web site. This requirement is satisfied if
10 the local publicly owned electric utility provides the uniform
11 resource locator (URL) that links to the documents or information
12 regarding other manners of access to the documents.

13 (g) A local publicly owned electric utility shall annually submit
14 to the Energy Commission documentation regarding eligible
15 renewable energy resources procurement contracts that it executed
16 during the prior year, as follows:

17 (1) A description of the eligible renewable energy resource,
18 including the duration of the contract or electricity purchase
19 agreement.

20 (2) A description and identification of the electrical generating
21 facility providing the eligible renewable energy resource under
22 the contract.

23 (3) An estimate of the percentage increase in the utility’s total
24 retail sales of electricity from eligible renewable energy resources
25 that will result from the contract.

26 (h) A public utility district that receives all of its electricity
27 pursuant to a preference right adopted and authorized by the United
28 States Congress pursuant to Section 4 of the Trinity River Division
29 Act of August 12, 1955 (Public Law 84-386) shall be in compliance
30 with the renewable energy procurement requirements of this article.

31 (i) For a local publicly owned electric utility that was in
32 existence on or before January 1, 2009, that provides retail electric
33 service to 15,000 or fewer customer accounts in California, and is
34 interconnected to a balancing authority located outside this state
35 but within the WECC, an eligible renewable energy resource
36 includes a facility that is located outside California that is
37 connected to the WECC transmission system, if all of the following
38 conditions are met:

39 (1) The electricity generated by the facility is procured by the
40 local publicly owned electric utility, is delivered to the balancing

1 authority area in which the local publicly owned electric utility is
2 located, and is not used to fulfill renewable energy procurement
3 requirements of other states.

4 (2) The local publicly owned electric utility participates in, and
5 complies with, the accounting system administered by the Energy
6 Commission pursuant to this article.

7 (3) The Energy Commission verifies that the electricity
8 generated by the facility is eligible to meet the renewables portfolio
9 standard procurement requirements.

10 (j) Notwithstanding subdivision (a), for a local publicly owned
11 electric utility that is a joint powers authority of districts established
12 pursuant to state law on or before January 1, 2005, that furnish
13 electric services other than to residential customers, and is formed
14 pursuant to the Irrigation District Law (Division 11 (commencing
15 with Section 20500) of the Water Code), the percentage of total
16 kilowatthours sold to the district's retail end-use customers, upon
17 which the renewables portfolio standard procurement requirements
18 in subdivision (b) are calculated, shall be based on the authority's
19 average retail sales over the previous seven years. If the authority
20 has not furnished electric service for seven years, then the
21 calculation shall be based on average retail sales over the number
22 of completed years during which the authority has provided electric
23 service.

24 (k) A local publicly owned electric utility in a city and county
25 that only receives greater than 67 percent of its electricity sources
26 from hydroelectric generation located within the state that it owns
27 and operates, and that does not meet the definition of a "renewable
28 electrical generation facility" pursuant to Section 25741 of the
29 Public Resources Code, shall be required to procure eligible
30 renewable energy resources, including renewable energy credits,
31 to meet only the electricity demands unsatisfied by its hydroelectric
32 generation in any given year, in order to satisfy its renewable
33 energy procurement requirements.

34 (l) Each local publicly owned electric utility shall report, on an
35 annual basis, to its customers and to the Energy Commission, all
36 of the following:

37 (1) Expenditures of public goods funds collected pursuant to
38 Section 385 for eligible renewable energy resource development.
39 Reports shall contain a description of programs, expenditures, and
40 expected or actual results.

1 (2) The resource mix used to serve its customers by energy
2 source.

3 (3) The utility’s status in implementing a renewables portfolio
4 standard pursuant to subdivision (a) and the utility’s progress
5 toward attaining the standard following implementation.

6 (m) A local publicly owned electric utility shall retain discretion
7 over both of the following:

8 (1) The mix of eligible renewable energy resources procured
9 by the utility and those additional generation resources procured
10 by the utility for purposes of ensuring resource adequacy and
11 reliability.

12 (2) The reasonable costs incurred by the utility for eligible
13 renewable energy resources owned by the utility.

14 (n) On or before July 1, 2011, the Energy Commission shall
15 adopt regulations specifying procedures for enforcement of this
16 article. The regulations shall include a public process under which
17 the Energy Commission may issue a notice of violation and
18 correction against a local publicly owned electric utility for failure
19 to comply with this article, and for referral of violations to the
20 State Air Resources Board for penalties pursuant to subdivision
21 (o).

22 (o) (1) Upon a determination by the Energy Commission that
23 a local publicly owned electric utility has failed to comply with
24 this article, the Energy Commission shall refer the failure to comply
25 with this article to the State Air Resources Board, which may
26 impose penalties to enforce this article consistent with Part 6
27 (commencing with Section 38580) of Division 25.5 of the Health
28 and Safety Code. Any penalties imposed shall be comparable to
29 those adopted by the commission for noncompliance by retail
30 sellers.

31 (2) If Division 25.5 (commencing with Section 38500) of the
32 Health and Safety Code is suspended or repealed, the State Air
33 Resources Board may take action to enforce this article on local
34 publicly owned electric utilities consistent with Section 41513 of
35 the Health and Safety Code, and impose penalties on a local
36 publicly owned electric utility consistent with Article 3
37 (commencing with Section 42400) of Chapter 4 of Part 4 of, and
38 Chapter 1.5 (commencing with Section 43025) of Part 5 of,
39 Division 26 of the Health and Safety Code.

1 (3) For the purpose of this subdivision, this section is an
2 emissions reduction measure pursuant to Section 38580 of the
3 Health and Safety Code.

4 (4) If the State Air Resources Board has imposed a penalty upon
5 a local publicly owned electric utility for the utility’s failure to
6 comply with this article, the State Air Resources Board shall not
7 impose an additional penalty for the same infraction, or the same
8 failure to comply, with any renewables procurement requirement
9 imposed upon the utility pursuant to the California Global Warming
10 Solutions Act of 2006 (Division 25.5 (commencing with Section
11 38500) of the Health and Safety Code).

12 (5) Any penalties collected by the State Air Resources Board
13 pursuant to this article shall be deposited in the Air Pollution
14 Control Fund and, upon appropriation by the Legislature, shall be
15 expended for reducing emissions of air pollution or greenhouse
16 gases within the same geographic area as the local publicly owned
17 electric utility.

18 (p) The commission has no authority or jurisdiction to enforce
19 any of the requirements of this article on a local publicly owned
20 electric utility.

21 SEC. 30. Section 399.31 is added to the Public Utilities Code,
22 to read:

23 399.31. A retail seller may procure renewable energy credits
24 associated with deliveries of electricity by an eligible renewable
25 energy resource to a local publicly owned electric utility, for
26 purposes of compliance with the renewables portfolio standard
27 requirements, if both of the following conditions are met:

28 (a) The local publicly owned electric utility has adopted and
29 implemented a renewable energy resources procurement plan that
30 complies with the renewables portfolio standard adopted pursuant
31 to Section 399.30.

32 (b) The local publicly owned electric utility is procuring
33 sufficient eligible renewable energy resources to satisfy the target
34 standard, and will not fail to satisfy the target standard in the event
35 that the renewable energy credit is sold to the retail seller.

36 SEC. 31. Section 454.5 of the Public Utilities Code is amended
37 to read:

38 454.5. (a) The commission shall specify the allocation of
39 electricity, including quantity, characteristics, and duration of
40 electricity delivery, that the Department of Water Resources shall

1 provide under its power purchase agreements to the customers of
2 each electrical corporation, which shall be reflected in the electrical
3 corporation's proposed procurement plan. Each electrical
4 corporation shall file a proposed procurement plan with the
5 commission not later than 60 days after the commission specifies
6 the allocation of electricity. The proposed procurement plan shall
7 specify the date that the electrical corporation intends to resume
8 procurement of electricity for its retail customers, consistent with
9 its obligation to serve. After the commission's adoption of a
10 procurement plan, the commission shall allow not less than 60
11 days before the electrical corporation resumes procurement
12 pursuant to this section.

13 (b) An electrical corporation's proposed procurement plan shall
14 include, but not be limited to, all of the following:

15 (1) An assessment of the price risk associated with the electrical
16 corporation's portfolio, including any utility-retained generation,
17 existing power purchase and exchange contracts, and proposed
18 contracts or purchases under which an electrical corporation will
19 procure electricity, electricity demand reductions, and
20 electricity-related products and the remaining open position to be
21 served by spot market transactions.

22 (2) A definition of each electricity product, electricity-related
23 product, and procurement related financial product, including
24 support and justification for the product type and amount to be
25 procured under the plan.

26 (3) The duration of the plan.

27 (4) The duration, timing, and range of quantities of each product
28 to be procured.

29 (5) A competitive procurement process under which the
30 electrical corporation may request bids for procurement-related
31 services, including the format and criteria of that procurement
32 process.

33 (6) An incentive mechanism, if any incentive mechanism is
34 proposed, including the type of transactions to be covered by that
35 mechanism, their respective procurement benchmarks, and other
36 parameters needed to determine the sharing of risks and benefits.

37 (7) The upfront standards and criteria by which the acceptability
38 and eligibility for rate recovery of a proposed procurement
39 transaction will be known by the electrical corporation prior to
40 execution of the transaction. This shall include an expedited

1 approval process for the commission’s review of proposed contracts
2 and subsequent approval or rejection thereof. The electrical
3 corporation shall propose alternative procurement choices in the
4 event a contract is rejected.

5 (8) Procedures for updating the procurement plan.

6 (9) A showing that the procurement plan will achieve the
7 following:

8 (A) ~~The electrical corporation will, in order to fulfill its unmet~~
9 ~~resource needs and in furtherance of Section 701.3, until a 20~~
10 ~~percent renewable resources portfolio is achieved, procure~~
11 ~~renewable energy resources with the goal of ensuring that at least~~
12 ~~an additional 1 percent per year of the electricity sold by the~~
13 ~~electrical corporation is generated from renewable energy~~
14 ~~resources, provided sufficient funds are made available pursuant~~
15 ~~to Sections 399.6 and 399.15, to cover the above-market costs for~~
16 ~~new renewable energy resources, shall procure resources from~~
17 ~~eligible renewable energy resources in an amount sufficient to~~
18 ~~meet its procurement requirements pursuant to the California~~
19 ~~Renewables Portfolio Standard Program (Article 16 (commencing~~
20 ~~with Section 399.11) of Chapter 2.3).~~

21 (B) ~~The electrical corporation will~~ shall create or maintain a
22 diversified procurement portfolio consisting of both short-term
23 and long-term electricity and electricity-related and demand
24 reduction products.

25 (C) ~~The electrical corporation will~~ shall first meet its unmet
26 resource needs through all available energy efficiency and demand
27 reduction resources that are cost effective, reliable, and feasible.

28 (10) The electrical corporation’s risk management policy,
29 strategy, and practices, including specific measures of price
30 stability.

31 (11) A plan to achieve appropriate increases in diversity of
32 ownership and diversity of fuel supply of nonutility electrical
33 generation.

34 (12) A mechanism for recovery of reasonable administrative
35 costs related to procurement in the generation component of rates.

36 (c) The commission shall review and accept, modify, or reject
37 each electrical corporation’s procurement plan. The commission’s
38 review shall consider each electrical corporation’s individual
39 procurement situation, and shall give strong consideration to that
40 situation in determining which one or more of the features set forth

1 in this subdivision shall apply to that electrical corporation. A
2 procurement plan approved by the commission shall contain one
3 or more of the following features, provided that the commission
4 may not approve a feature or mechanism for an electrical
5 corporation if it finds that the feature or mechanism would impair
6 the restoration of an electrical corporation's creditworthiness or
7 would lead to a deterioration of an electrical corporation's
8 creditworthiness:

9 (1) A competitive procurement process under which the
10 electrical corporation may request bids for procurement-related
11 services. The commission shall specify the format of that
12 procurement process, as well as criteria to ensure that the auction
13 process is open and adequately subscribed. Any purchases made
14 in compliance with the commission-authorized process shall be
15 recovered in the generation component of rates.

16 (2) An incentive mechanism that establishes a procurement
17 benchmark or benchmarks and authorizes the electrical corporation
18 to procure from the market, subject to comparing the electrical
19 corporation's performance to the commission-authorized
20 benchmark or benchmarks. The incentive mechanism shall be
21 clear, achievable, and contain quantifiable objectives and standards.
22 The incentive mechanism shall contain balanced risk and reward
23 incentives that limit the risk and reward of an electrical corporation.

24 (3) Upfront achievable standards and criteria by which the
25 acceptability and eligibility for rate recovery of a proposed
26 procurement transaction will be known by the electrical corporation
27 prior to the execution of the bilateral contract for the transaction.
28 The commission shall provide for expedited review and either
29 approve or reject the individual contracts submitted by the electrical
30 corporation to ensure compliance with its procurement plan. To
31 the extent the commission rejects a proposed contract pursuant to
32 this criteria, the commission shall designate alternative procurement
33 choices obtained in the procurement plan that will be recoverable
34 for ratemaking purposes.

35 (d) A procurement plan approved by the commission shall
36 accomplish each of the following objectives:

37 (1) Enable the electrical corporation to fulfill its obligation to
38 serve its customers at just and reasonable rates.

39 (2) Eliminate the need for after-the-fact reasonableness reviews
40 of an electrical corporation's actions in compliance with an

1 approved procurement plan, including resulting electricity
2 procurement contracts, practices, and related expenses. However,
3 the commission may establish a regulatory process to verify and
4 ~~assure~~ *ensure* that each contract was administered in accordance
5 with the terms of the contract, and contract disputes ~~which~~ *that*
6 may arise are reasonably resolved.

7 (3) Ensure timely recovery of prospective procurement costs
8 incurred pursuant to an approved procurement plan. The
9 commission shall establish rates based on forecasts of procurement
10 costs adopted by the commission, actual procurement costs
11 incurred, or combination thereof, as determined by the commission.
12 The commission shall establish power procurement balancing
13 accounts to track the differences between recorded revenues and
14 costs incurred pursuant to an approved procurement plan. The
15 commission shall review the power procurement balancing
16 accounts, not less than semiannually, and shall adjust rates or order
17 refunds, as necessary, to promptly amortize a balancing account,
18 according to a schedule determined by the commission. Until
19 January 1, 2006, the commission shall ensure that any
20 overcollection or undercollection in the power procurement
21 balancing account does not exceed 5 percent of the electrical
22 corporation's actual recorded generation revenues for the prior
23 calendar year excluding revenues collected for the Department of
24 Water Resources. The commission shall determine the schedule
25 for amortizing the overcollection or undercollection in the
26 balancing account to ensure that the 5 percent threshold is not
27 exceeded. After January 1, 2006, this adjustment shall occur when
28 deemed appropriate by the commission consistent with the
29 objectives of this section.

30 (4) Moderate the price risk associated with serving its retail
31 customers, including the price risk embedded in its long-term
32 supply contracts, by authorizing an electrical corporation to enter
33 into financial and other electricity-related product contracts.

34 (5) Provide for just and reasonable rates, with an appropriate
35 balancing of price stability and price level in the electrical
36 corporation's procurement plan.

37 (e) The commission shall provide for the periodic review and
38 prospective modification of an electrical corporation's procurement
39 plan.

1 (f) The commission may engage an independent consultant or
2 advisory service to evaluate risk management and strategy. The
3 reasonable costs of any consultant or advisory service is a
4 reimbursable expense and eligible for funding pursuant to Section
5 631.

6 (g) The commission shall adopt appropriate procedures to ensure
7 the confidentiality of any market sensitive information submitted
8 in an electrical corporation’s proposed procurement plan or
9 resulting from or related to its approved procurement plan,
10 including, but not limited to, proposed or executed power purchase
11 agreements, data request responses, or consultant reports, or any
12 combination, provided that the Office of Ratepayer Advocates and
13 other consumer groups that are nonmarket participants shall be
14 provided access to this information under confidentiality
15 procedures authorized by the commission.

16 (h) Nothing in this section alters, modifies, or amends the
17 commission’s oversight of affiliate transactions under its rules and
18 decisions or the commission’s existing authority to investigate and
19 penalize an electrical corporation’s alleged fraudulent activities,
20 or to disallow costs incurred as a result of gross incompetence,
21 fraud, abuse, or similar grounds. Nothing in this section expands,
22 modifies, or limits the State Energy Resources Conservation and
23 Development Commission’s existing authority and responsibilities
24 as set forth in Sections 25216, 25216.5, and 25323 of the Public
25 Resources Code.

26 (i) An electrical corporation that serves less than 500,000 electric
27 retail customers within the state may file with the commission a
28 request for exemption from this section, which the commission
29 shall grant upon a showing of good cause.

30 (j) (1) Prior to its approval pursuant to Section 851 of any
31 divestiture of generation assets owned by an electrical corporation
32 on or after the date of enactment of the act adding this section, the
33 commission shall determine the impact of the proposed divestiture
34 on the electrical corporation’s procurement rates and shall approve
35 a divestiture only to the extent it finds, taking into account the
36 effect of the divestiture on procurement rates, that the divestiture
37 is in the public interest and will result in net ratepayer benefits.

38 (2) Any electrical corporation’s procurement necessitated as a
39 result of the divestiture of generation assets on or after the effective
40 date of the act adding this subdivision shall be subject to the

1 mechanisms and procedures set forth in this section only if its
2 actual cost is less than the recent historical cost of the divested
3 generation assets.

4 (3) Notwithstanding paragraph (2), the commission may deem
5 proposed procurement eligible to use the procedures in this section
6 upon its approval of asset divestiture pursuant to Section 851.

7 SEC. 32. Article 11 (commencing with Section 910) is added
8 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,
9 to read:

10

11

Article 11. Reports

12

13 910. (a) By February 1 of each year, the commission shall
14 prepare and submit to the policy and fiscal committees of the
15 Legislature a written report summarizing the following information:

16 (1) All electrical corporation revenue requirement increases
17 associated with meeting the renewables portfolio standard, as
18 defined in Section 399.12, including direct procurement costs for
19 eligible renewable energy resources and renewable energy credits,
20 administrative expenses for procurement, expenses incurred to
21 ensure a reliable supply of electricity, and expenses for upgrades
22 to the electrical transmission and distribution grid necessary to the
23 delivery of electricity from eligible renewable energy resources
24 to load.

25 (2) All cost savings experienced, or costs avoided, by electrical
26 corporations as a result of meeting the renewables portfolio
27 standard.

28 (3) All costs incurred by electrical corporations for incentives
29 for distributed and renewable generation, including the
30 self-generation incentive program, the California Solar Initiative,
31 and net energy metering.

32 (4) All cost savings experienced, or costs avoided, by electrical
33 corporations as a result of incentives for distributed and renewable
34 generation.

35 (5) All renewable, fossil fuel, and nuclear procurement costs,
36 research, study, or pilot program costs, or other program costs for
37 which an electrical corporation is seeking recovery in rates, that
38 is pending determination or approval by the commission.

1 (6) The decision number for each decision of the commission
2 of recovery in rates of costs incurred by an electrical corporation
3 since the preceding report.

4 (7) Any change in the electrical load serviced by an electrical
5 corporation since the preceding report.

6 (8) The efforts each electrical corporation is taking to recruit
7 and train employees to ensure an adequately trained and available
8 workforce, including the number of new employees hired by the
9 electrical corporation for purposes of implementing the
10 requirements of Article 16 (commencing with Section 399.11) of
11 Chapter 2.3, the goals adopted by the electrical corporation for
12 increasing women, minority, and disabled veterans trained or hired
13 for purposes of implementing the requirements of Article 16
14 (commencing with Section 399.11) of Chapter 2.3, and, to the
15 extent information is available, the number of new employees
16 hired and the number of women, minority, and disabled veterans
17 trained or hired by persons or corporations owning or operating
18 eligible renewable energy resources under contract with an
19 electrical corporation. This paragraph does not provide the
20 commission with authority to engage in, regulate, or expand its
21 authority to include, workforce recruitment or training.

22 (b) The commission may combine the information required by
23 this section with the reports prepared pursuant to Article 16
24 (commencing with Section 399.11) of Chapter 2.3.

25 SEC. 33. Section 1005.1 is added to the Public Utilities Code,
26 to read:

27 1005.1. (a) The commission shall issue a decision on an
28 application for a certificate within 18 months of the date of filing
29 of the completed application, when all of the following are true:

30 (1) The application is for a certificate for building or upgrading
31 an electrical transmission line that the commission finds necessary
32 to provide transmission to load centers for electricity generated in
33 a high priority renewable energy zone or is reasonably necessary
34 to facilitate achievement of the renewables portfolio standard
35 established in Article 16 (commencing with Section 399.11) of
36 Chapter 2.3.

37 (2) The commission has considered all of the following:

38 (A) The utilization of rights-of-way by upgrading existing
39 transmission facilities instead of building new transmission
40 facilities, where technically and economically justifiable.

1 (B) The expansion of existing rights-of-way, if technically and
2 economically feasible, when construction of new transmission
3 lines is required.

4 (C) The creation of new rights-of-way when justified by
5 environmental, technical, and economic reasons.

6 (D) The availability of cost-effective alternatives to transmission,
7 such as energy efficiency measures and distributed generation.

8 (3) The commission has not expressly found any of the
9 following:

10 (A) That the investment is not reasonable and necessary to
11 maintain or enhance reliability of the transmission grid.

12 (B) That the building or upgrading of the electrical transmission
13 line will not maintain or enhance efficient use of the transmission
14 grid.

15 (C) That the transmission line fails to meet other applicable
16 standards and requirements for approval and construction.

17 (b) An extension of time may be granted by the commission if
18 it finds the extension is necessary for completion of review
19 pursuant to the California Environmental Quality Act (Division
20 13 (commencing with Section 21000) of the Public Resources
21 Code).

22 SEC. 34. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 a local agency or school district has the authority to levy service
25 charges, fees, or assessments sufficient to pay for the program or
26 level of service mandated by this act or because costs that may be
27 incurred by a local agency or school district will be incurred
28 because this act creates a new crime or infraction, eliminates a
29 crime or infraction, or changes the penalty for a crime or infraction,
30 within the meaning of Section 17556 of the Government Code, or
31 changes the definition of a crime within the meaning of Section 6
32 of Article XIII B of the California Constitution.

33 SEC. 35. The sum of three hundred twenty-two thousand
34 dollars (\$322,000) is hereby appropriated from the Public Utilities
35 Commission Utilities Reimbursement Account to the Public
36 Utilities Commission for additional staffing to identify, review,
37 and approve transmission lines reasonably necessary or appropriate
38 to facilitate achievement of the renewables portfolio standard

- 1 established in Article 16 (commencing with Section 399.11) of
- 2 Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

O