

AMENDED IN SENATE JUNE 10, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 94**

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**Introduced by Committee on Utilities and Commerce (Levine (Chair), Keene (Vice Chair), Bass, Blakeslee, Davis, Huffman, Jones, Krekorian, Smyth, and Tran)**

December 20, 2006

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An act to amend Sections 25302.5 ~~and 25534~~, 25534, and 25741 of the Public Resources Code, to amend Sections 5, 20, 216, 353.11, 366.2, 380, 387, 387.5, 394.5, 395.5, 399.12, 399.12.5, 701.8, 761.3, 848, 2774.5, 2827, 2852, 3302, 7000, 8340, and 9604 of, to amend and renumber Sections 228.5 and 399.25 of, to add Section 224.3 to, to repeal Section 399.1 of, to repeal the heading of Article 15 (commencing with Section 399) of Chapter 2.3 of, and to repeal the heading of Article 5 (commencing with Section 445) of Chapter 2.5 of, Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 94, as amended, Committee on Utilities and Commerce. ~~Renewable energy. Public utilities: local publicly owned electric utilities: renewable energy resources.~~

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The existing Public Utilities Code and Public Utilities Act define certain terms for purposes of the code and the act, respectively.

This bill would provide that the definitions contained in the act govern the construction of the code unless the provision or context otherwise requires. The bill would define the term “Energy Commission” as meaning the State Energy Resources Conservation and Development Commission for purposes of the code, and would define the term “local publicly owned electric utility” within the act.

(2) The existing definition of a “public utility” within the act provides that ownership or operation of a facility that has been certified by the Federal Energy Regulatory Commission (FERC) as an exempt wholesale generator pursuant to a specified section of the Public Utility Holding Company Act of 1935 does not make a corporation or person a public utility solely due to the ownership or operation of the facility. The existing definition of an “exempt wholesale generator” defined the term by incorporating the definition from the Public Utility Holding Company Act of 1935. The federal Energy Policy Act of 2005 repealed the Public Utility Holding Company Act of 1935 and adopted the Public Utility Holding Company Act of 2005, which includes a definition for “exempt wholesale generator.” The definition of a “public utility” provides that ownership, control, operation, or management of an electric plant used for sales into the Power Exchange does not make a corporation or person a public utility solely because of that ownership, participation, or sale.

This bill would delete references to facilities certified by the FERC as “exempt wholesale generators” pursuant to the Public Utility Holding Company Act of 1935, and would instead reference the definition of that term in the Public Utility Holding Company Act of 2005. The bill would replace the provision in the definition of a “public utility” that provides that ownership, control, operation, or management of an electric plant used for sales into the Power Exchange does not make a corporation or person a public utility with a provision that ownership, control, operation, or management of an electric plant used for sales into a market established and operated by the Independent System Operator or any other wholesale electricity market does not make a corporation or person a public utility solely due to the ownership, participation, or sale.

~~(3) The bill would define what is a “local publicly owned electric utility” within the act.~~

~~(4)~~

(3) The act defines an “electric service provider” as an entity that offers electrical service to customers within the service territory of an electrical corporation, as defined. Pursuant to the act, an “electric service

provider” does not include an electrical corporation or a local publicly owned electric corporation, but does include the unregulated affiliates and subsidiaries of an electrical corporation.

Existing law relative to private energy producers defines an “electric service provider” as an electrical corporation, electrical cooperative, or local publicly owned electric utility, excluding a local publicly owned electric utility that serves more than 750,000 customers and that also conveys water to its customers. Existing law relative to private energy producers requires every electric service provider, upon request, to make available to eligible customer-generators contracts or tariffs for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds a specified amount.

This bill would replace the definition of “electric service provider” in existing law relative to private energy producers with a definition of “electricity distribution utility or cooperative,” which would not include local publicly owned electric utilities, for which there are separate provisions.

*(4) The California Renewables Portfolio Standard Program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, 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 (renewables portfolio standard). The renewables portfolio standard requires each retail seller to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010. 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 revise the definitions of “eligible renewable energy resource,” “procure,” and “renewables portfolio standard,” and would revise a provision related to the eligibility of certain hydroelectric generation, to include a local publicly owned electric utility, in addition*

to a retail seller. The bill would revise the definition of “in-state renewable electricity generation facility” that is applicable to renewable energy programs administered by the Energy Commission, to include the renewables portfolio standard implemented by the governing board of a local publicly owned electric utility, in addition to that adopted for a retail seller.

(5) A decision of the PUC adopted the California Solar Initiative. Existing law requires the PUC to undertake certain steps in implementing the California Solar Initiative, defines what is an eligible solar energy system for purposes of the program, and regulates the use of funds under the California Solar Initiative, including ensuring that not less than 10% of the funds for the California Solar Initiative are utilized for the installation of solar energy systems, as defined, on low-income residential housing, as defined.

This bill would conform those definitions of a “solar energy system,” as specified.

(6) This bill would make other technical, nonsubstantive changes.

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

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

1 SECTION 1. Section 25302.5 of the Public Resources Code  
 2 is amended to read:  
 3 25302.5. (a) As part of each integrated energy policy report  
 4 required pursuant to Section 25302, each entity that serves or plans  
 5 to serve electricity to retail customers, including, but not limited  
 6 to, electrical corporations, nonutility electric service providers,  
 7 community choice aggregators, and local publicly owned electric  
 8 utilities, shall provide the commission with its forecast of both of  
 9 the following:  
 10 (1) The amount of its forecasted load that may be lost or added  
 11 by any of the following:  
 12 (A) A community choice aggregator.  
 13 (B) An existing local publicly owned electric utility.  
 14 (C) A newly formed local publicly owned electric utility.  
 15 (2) Load that will be served by an electric service provider.  
 16 (b) The commission shall perform an assessment in the service  
 17 territory of each electrical corporation of the loss or addition of

1 load described in this section and submit the results of the  
2 assessment to the Public Utilities Commission.

3 (c) Notwithstanding subdivision (a), the commission may  
4 exempt from the forecasting requirements in that subdivision, a  
5 local publicly owned electric utility that is not planning to acquire  
6 additional load beyond its existing exclusive service territory within  
7 the forecast period provided by the commission pursuant to Section  
8 25303.

9 (d) For purposes of this section, the following terms have the  
10 following meanings:

11 (1) “Community choice aggregator” means any “community  
12 choice aggregator” as defined in Section 331.1 of the Public  
13 Utilities Code.

14 (2) “Electrical corporation” means any “electrical corporation”  
15 as defined in Section 218 of the Public Utilities Code.

16 (3) “Electric service provider” means any “electric service  
17 provider” as defined in Section 218.3 of the Public Utilities Code.

18 (4) “Local publicly owned electric utility” means any “local  
19 publicly owned electric utility” as defined in Section 224.3 of the  
20 Public Utilities Code.

21 SEC. 2. Section 25534 of the Public Resources Code is  
22 amended to read:

23 25534. (a) The commission may, after one or more hearings,  
24 amend the conditions of, or revoke the certification for, any facility  
25 for any of the following reasons:

26 (1) Any material false statement set forth in the application,  
27 presented in proceedings of the commission, or included in  
28 supplemental documentation provided by the applicant.

29 (2) Any significant failure to comply with the terms or  
30 conditions of approval of the application, as specified by the  
31 commission in its written decision.

32 (3) A violation of this division or any regulation or order issued  
33 by the commission under this division.

34 (4) The owner of a project does not start construction of the  
35 project within 12 months after the date all permits necessary for  
36 the project become final and all administrative and judicial appeals  
37 have been resolved provided the California Consumer Power and  
38 Conservation Financing Authority notifies the commission that it  
39 is willing and able to construct the project pursuant to subdivision  
40 (g). The project owner may extend the 12-month period by 24

1 additional months pursuant to subdivision (f). This paragraph  
2 applies only to projects with a project permit application deemed  
3 complete by the commission after January 1, 2003.

4 (b) The commission may also administratively impose a civil  
5 penalty for a violation of paragraph (1) or (2) of subdivision (a).  
6 Any civil penalty shall be imposed in accordance with Section  
7 25534.1 and may not exceed seventy-five thousand dollars  
8 (\$75,000) per violation, except that the civil penalty may be  
9 increased by an amount not to exceed one thousand five hundred  
10 dollars (\$1,500) per day for each day in which the violation occurs  
11 or persists, but the total of the per-day penalties may not exceed  
12 fifty thousand dollars (\$50,000).

13 (c) A project owner shall commence construction of a project  
14 subject to the start-of-construction deadline provided by paragraph  
15 (4) of subdivision (a) within 12 months after the project has been  
16 certified by the commission and after all accompanying project  
17 permits are final and administrative and judicial appeals have been  
18 completed. The project owner shall submit construction and  
19 commercial operation milestones to the commission within 30  
20 days after project certification. Construction milestones shall  
21 require the start of construction within the 12-month period  
22 established by this subdivision. The commission shall approve  
23 milestones within 60 days after project certification. If the 30-day  
24 deadline to submit construction milestones to the commission is  
25 not met, the commission shall establish milestones for the project.

26 (d) The failure of the owner of a project subject to the  
27 start-of-construction deadline provided by paragraph (4) of  
28 subdivision (a) to meet construction or commercial operation  
29 milestones, without a finding by the commission of good cause,  
30 shall be cause for revocation of certification or the imposition of  
31 other penalties by the commission.

32 (e) A finding by the commission that there is good cause for  
33 failure to meet the start-of-construction deadline required by  
34 paragraph (4) of subdivision (a) or any subsequent milestones of  
35 subdivision (c) shall be made if the commission determines that  
36 any of the following criteria are met:

37 (1) The change in any deadline or milestone does not change  
38 the established deadline or milestone for the start of commercial  
39 operation.

1 (2) The deadline or milestone is changed due to circumstances  
2 beyond the project owner’s control, including, but not limited to,  
3 administrative and legal appeals.

4 (3) The deadline or milestone will be missed but the project  
5 owner demonstrates a good faith effort to meet the project deadline  
6 or milestone.

7 (4) The deadline or milestone will be missed due to unforeseen  
8 natural disasters or acts of God that prevent timely completion of  
9 the project deadline or milestone.

10 (5) The deadline or milestone will be missed for any other reason  
11 determined reasonable by the commission.

12 (f) The commission shall extend the start-of-construction  
13 deadline required by paragraph (4) of subdivision (a) by an  
14 additional 24 months; if the owner reimburses the commission’s  
15 actual cost of licensing the project, less the amount paid pursuant  
16 to subdivision (a) of Section 25806. For the purposes of this  
17 section, the commission’s actual cost of licensing the project shall  
18 be based on a certified audit report filed by the commission staff  
19 within 180 days of the commission’s certification of the project.  
20 The certified audit shall be filed and served on all parties to the  
21 proceeding, is subject to public review and comment, and is subject  
22 to at least one public hearing if requested by the project owner.  
23 Any reimbursement received by the commission pursuant to this  
24 subdivision shall be deposited in the General Fund.

25 (g) If the owner of a project subject to the start-of-construction  
26 deadline provided by paragraph (4) of subdivision (a) fails to  
27 commence construction, without good cause, within 12 months  
28 after the project has been certified by the commission and has not  
29 received an extension pursuant to subdivision (f), the commission  
30 shall provide immediate notice to the California Consumer Power  
31 and Conservation Financing Authority. The authority shall evaluate  
32 whether to pursue the project independently or in conjunction with  
33 any other public or private entity, including the original certificate  
34 holder. If the authority demonstrates to the commission that it is  
35 willing and able to construct the project either independently or  
36 in conjunction with any other public or private entity, including  
37 the original certificate holder, the commission may revoke the  
38 original certification and issue a new certification for the project  
39 to the authority, unless the authority’s statutory authorization to  
40 finance or approve new programs, enterprises, or projects has

1 expired. If the authority declines to pursue the project, the permit  
2 shall remain with the current project owner until it expires pursuant  
3 to the regulations adopted by the commission.

4 (h) If the commission issues a new certification for a project  
5 subject to the start-of-construction deadline provided by paragraph  
6 (4) of subdivision (a) to the authority, the commission shall adopt  
7 new milestones for the project that allow the authority up to 24  
8 months to start construction of the project or to start to meet the  
9 applicable deadlines or milestones. If the authority fails to begin  
10 construction in conformity with the deadlines or milestones adopted  
11 by the commission, without good cause, the certification may be  
12 revoked.

13 (i) (1) If the commission issues a new certification for a project  
14 subject to the start-of-construction deadline provided by paragraph  
15 (4) of subdivision (a) to the authority and the authority pursues  
16 the project without participation of the original certificate holder,  
17 the authority shall offer to reimburse the original certificate holder  
18 for the actual costs the original certificate holder incurred in  
19 permitting the project and in procuring assets associated with the  
20 license, including, but not limited to, major equipment and the  
21 emission offsets. In order to receive reimbursement, the original  
22 certificate holder shall provide to the commission documentation  
23 of the actual costs incurred in permitting the project. The  
24 commission shall validate those costs. The certificate holder may  
25 refuse to accept the offer of reimbursement for any asset associated  
26 with the license and retain the asset. To the extent the certificate  
27 holder chooses to accept the offer for an asset, it shall provide the  
28 authority with the asset.

29 (2) If the authority reimburses the original certificate holder for  
30 the costs described in paragraph (1), the original certificate holder  
31 shall provide the authority with all of the assets for which the  
32 original certificate holder received reimbursement.

33 (j) This section does not prevent a certificate holder from selling  
34 its license to construct and operate a project prior to its revocation  
35 by the commission. In the event of a sale to an entity that is not  
36 an affiliate of the certificate holder, the commission shall adopt  
37 new deadlines or milestones for the project that allow the new  
38 certificate holder up to 12 months to start construction of the  
39 project or to start to meet the applicable deadlines or milestones.

1 (k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j),  
2 inclusive, do not apply to licenses issued for the modernization,  
3 repowering, replacement, or refurbishment of existing facilities or  
4 to a qualifying small power production facility or a qualifying  
5 cogeneration facility within the meaning of Sections 201 and 210  
6 of Title II of the federal Public Utility Regulatory Policies Act of  
7 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the  
8 regulations adopted pursuant to those sections by the Federal  
9 Energy Regulatory Commission (18 C.F.R. Parts 292.101 to  
10 292.602, inclusive), nor shall those provisions apply to any other  
11 generation units installed, operated, and maintained at a customer  
12 site exclusively to serve that facility's load. For the purposes of  
13 this subdivision, "replacement" of an existing facility includes,  
14 but is not limited to, a comparable project at a location different  
15 than the facility being replaced, provided that the commission  
16 certifies that the new project will result in the decommissioning  
17 of the existing facility.

18 (l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j),  
19 inclusive, do not apply to licenses issued to "local publicly owned  
20 electric utilities," as defined in Section 224.3 of the Public Utilities  
21 Code, whose governing bodies certify to the commission that the  
22 project is needed to meet the projected native load of the local  
23 publicly owned utility.

24 (m) To implement this section, the commission and the  
25 California Consumer Power and Conservation Financing Authority  
26 may, in consultation with each other, adopt emergency regulations  
27 in accordance with Chapter 3.5 (commencing with Section 11340)  
28 of Part 1 of Division 3 of Title 2 of the Government Code. For  
29 purposes of that chapter, including, without limitation, Section  
30 11349.6 of the Government Code, the adoption of the regulations  
31 shall be considered by the Office of Administrative Law to be  
32 necessary for the immediate preservation of the public peace, health  
33 and safety, or general welfare.

34 *SEC. 3. Section 25741 of the Public Resources Code is*  
35 *amended to read:*

36 25741. As used in this chapter, the following terms have the  
37 following meaning:

38 (a) "Delivered" and "delivery" mean the electricity output of  
39 an in-state renewable electricity generation facility that is used to  
40 serve end-use retail customers located within the state. Subject to

1 verification by the accounting system established by the  
2 commission pursuant to subdivision (b) of Section 399.13 of the  
3 Public Utilities Code, electricity shall be deemed delivered if it is  
4 either generated at a location within the state, or is scheduled for  
5 consumption by California end-use retail customers. Subject to  
6 criteria adopted by the commission, electricity generated by an  
7 eligible renewable energy resource may be considered “delivered”  
8 regardless of whether the electricity is generated at a different time  
9 from consumption by a California end-use customer.

10 (b) “In-state renewable electricity generation facility” means a  
11 facility that meets all of the following criteria:

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

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

19 (A) The facility is located in the state or near the border of the  
20 state with the first point of connection to the transmission network  
21 within this state and electricity produced by the facility is delivered  
22 to an in-state location.

23 (B) The facility has its first point of interconnection to the  
24 transmission network outside the state and satisfies all of the  
25 following requirements:

26 (i) It is connected to the transmission network within the  
27 Western Electricity Coordinating Council (WECC) service  
28 territory.

29 (ii) It commences initial commercial operation after January 1,  
30 2005.

31 (iii) Electricity produced by the facility is delivered to an in-state  
32 location.

33 (iv) It will not cause or contribute to any violation of a California  
34 environmental quality standard or requirement.

35 (v) If the facility is outside of the United States, it is developed  
36 and operated in a manner that is as protective of the environment  
37 as a similar facility located in the state.

38 (vi) It participates in the accounting system to verify compliance  
39 with the renewables portfolio standard by retail sellers, once

1 established by the Energy Commission pursuant to subdivision  
2 (b) of Section 399.13 of the Public Utilities Code.

3 (C) The facility meets the requirements of clauses (i), (iii), (iv),  
4 (v), and (vi) in subparagraph (B), but does not meet the  
5 requirements of clause (ii) because it commences initial operation  
6 prior to January 1, 2005, if the facility satisfies either of the  
7 following requirements:

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

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

17 (3) For the purposes of this subdivision, “solid waste  
18 conversion” means a technology that uses a noncombustion thermal  
19 process to convert solid waste to a clean-burning fuel for the  
20 purpose of generating electricity, and that meets all of the following  
21 criteria:

22 (A) The technology does not use air or oxygen in the conversion  
23 process, except ambient air to maintain temperature control.

24 (B) The technology produces no discharges of air contaminants  
25 or emissions, including greenhouse gases as defined in Section  
26 42801.1 of the Health and Safety Code.

27 (C) The technology produces no discharges to surface or  
28 groundwaters of the state.

29 (D) The technology produces no hazardous wastes.

30 (E) To the maximum extent feasible, the technology removes  
31 all recyclable materials and marketable green waste compostable  
32 materials from the solid waste stream prior to the conversion  
33 process and the owner or operator of the facility certifies that those  
34 materials will be recycled or composted.

35 (F) The facility at which the technology is used is in compliance  
36 with all applicable laws, regulations, and ordinances.

37 (G) The technology meets any other conditions established by  
38 the commission.

39 (H) The facility certifies that any local agency sending solid  
40 waste to the facility diverted at least 30 percent of all solid waste

1 it collects through solid waste reduction, recycling, and  
2 composting. For purposes of this paragraph, “local agency” means  
3 any city, county, or special district, or subdivision thereof, which  
4 is authorized to provide solid waste handling services.

5 (c) “Procurement entity” means any person or corporation that  
6 enters into an agreement with a retail seller to procure eligible  
7 renewable energy resources pursuant to subdivision (f) of Section  
8 399.14 of the Public Utilities Code.

9 (d) “Renewable energy public goods charge” means that portion  
10 of the nonbypassable system benefits charge authorized to be  
11 collected and to be transferred to the Renewable Resource Trust  
12 Fund pursuant to the Reliable Electric Service Investments Act  
13 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part  
14 1 of Division 1 of the Public Utilities Code).

15 (e) “Report” means the report entitled “Investing in Renewable  
16 Electricity Generation in California” (June 2001, Publication  
17 Number P500-00-022) submitted to the Governor and the  
18 Legislature by the commission.

19 (f) “Retail seller” means a “retail seller” as defined in Section  
20 399.12 of the Public Utilities Code.

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 5 of the Public Utilities Code is amended to  
23 read:

24 5. Unless the provision or the context otherwise requires, the  
25 definitions, rules of construction, and other general provisions  
26 contained in Sections 1 to 22, inclusive, and the definitions in the  
27 Public Utilities Act (Chapter 1 (commencing with Section 201) of  
28 Part 1 of Division 1), shall govern the construction of this code.

29 ~~SEC. 4.~~

30 *SEC. 5.* Section 20 of the Public Utilities Code is amended to  
31 read:

32 20. (a) “Commission” means the Public Utilities Commission  
33 created by Section 1 of Article XII of the California Constitution,  
34 and “commissioner” means a member of the commission.

35 (b) “Energy Commission” means the State Energy Resources  
36 Conservation and Development Commission.

37 ~~SEC. 5.~~

38 *SEC. 6.* Section 216 of the Public Utilities Code is amended  
39 to read:

1 216. (a) “Public utility” includes every common carrier, toll  
2 bridge corporation, pipeline corporation, gas corporation, electrical  
3 corporation, telephone corporation, telegraph corporation, water  
4 corporation, sewer system corporation, and heat corporation, where  
5 the service is performed for, or the commodity is delivered to, the  
6 public or any portion thereof.

7 (b) Whenever any common carrier, toll bridge corporation,  
8 pipeline corporation, gas corporation, electrical corporation,  
9 telephone corporation, telegraph corporation, water corporation,  
10 sewer system corporation, or heat corporation performs a service  
11 for, or delivers a commodity to, the public or any portion thereof  
12 for which any compensation or payment whatsoever is received,  
13 that common carrier, toll bridge corporation, pipeline corporation,  
14 gas corporation, electrical corporation, telephone corporation,  
15 telegraph corporation, water corporation, sewer system corporation,  
16 or heat corporation, is a public utility subject to the jurisdiction,  
17 control, and regulation of the commission and the provisions of  
18 this part.

19 (c) When any person or corporation performs any service for,  
20 or delivers any commodity to, any person, private corporation,  
21 municipality, or other political subdivision of the state, that in turn  
22 either directly or indirectly, mediately or immediately, performs  
23 that service for, or delivers that commodity to, the public or any  
24 portion thereof, that person or corporation is a public utility subject  
25 to the jurisdiction, control, and regulation of the commission and  
26 the provisions of this part.

27 (d) Ownership or operation of a facility that employs  
28 cogeneration technology or produces power from other than a  
29 conventional power source or the ownership or operation of a  
30 facility which employs landfill gas technology does not make a  
31 corporation or person a public utility within the meaning of this  
32 section solely because of the ownership or operation of that facility.

33 (e) Any corporation or person engaged directly or indirectly in  
34 developing, producing, transmitting, distributing, delivering, or  
35 selling any form of heat derived from geothermal or solar resources  
36 or from cogeneration technology to any privately owned or publicly  
37 owned public utility, or to the public or any portion thereof, is not  
38 a public utility within the meaning of this section solely by reason  
39 of engaging in any of those activities.

1 (f) The ownership or operation of a facility that sells compressed  
2 natural gas at retail to the public for use only as a motor vehicle  
3 fuel, and the selling of compressed natural gas at retail from that  
4 facility to the public for use only as a motor vehicle fuel, does not  
5 make the corporation or person a public utility within the meaning  
6 of this section solely because of that ownership, operation, or sale.

7 (g) Ownership or operation of a facility that is an exempt  
8 wholesale generator, as defined in the Public Utility Holding  
9 Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make  
10 a corporation or person a public utility within the meaning of this  
11 section; solely due to the ownership or operation of that facility.

12 (h) The ownership, control, operation, or management of an  
13 electric plant used for direct transactions or participation directly  
14 or indirectly in direct transactions, as permitted by subdivision (b)  
15 of Section 365, sales into a market established and operated by the  
16 Independent System Operator or any other wholesale electricity  
17 market, or the use or sale as permitted under subdivisions (b) to  
18 (d), inclusive, of Section 218, shall not make a corporation or  
19 person a public utility within the meaning of this section solely  
20 because of that ownership, participation, or sale.

21 ~~SEC. 6.~~

22 *SEC. 7.* Section 224.3 is added to the Public Utilities Code, to  
23 read:

24 224.3. “Local publicly owned electric utility” means a  
25 municipality or municipal corporation operating as a “public  
26 utility” furnishing electric service as provided in Section 10001,  
27 a municipal utility district furnishing electric service formed  
28 pursuant to Division 6 (commencing with Section 11501), a public  
29 utility district furnishing electric services formed pursuant to the  
30 Public Utility District Act set forth in Division 7 (commencing  
31 with Section 15501), an irrigation district furnishing electric  
32 services formed pursuant to the Irrigation District Law set forth  
33 in Division 11 (commencing with Section 20500) of the Water  
34 Code, or a joint powers authority that includes one or more of these  
35 agencies and that owns generation or transmission facilities, or  
36 furnishes electric services over its own or its member’s electric  
37 distribution system.

38 ~~SEC. 7.~~

39 *SEC. 8.* Section 228.5 of the Public Utilities Code is amended  
40 and renumbered to read:

1 218.5. (a) The following terms have the following meanings:

2 (1) “Exempt wholesale generator” has the same meaning as  
3 defined in the Public Utility Holding Company Act of 2005 (42  
4 U.S.C. Sec. 16451(6)).

5 (2) ~~Qualifying~~ “*Qualifying* small power producer,” “small power  
6 production facility,” and “qualifying small power production  
7 facility” have the same ~~meaning~~ *meanings* as found in Section 796  
8 of Title 16 of the United States Code and *the* regulations enacted  
9 pursuant thereto.

10 (b) Notwithstanding any other provision of law, a qualifying  
11 small power producer owning or operating a small power  
12 production facility is not a public utility subject to the general  
13 jurisdiction of the commission solely because of the ownership or  
14 operation of the facility.

15 (c) Notwithstanding any other provision of law, an exempt  
16 wholesale generator is not a public utility subject to the general  
17 jurisdiction of the commission solely due to the ownership or  
18 operation of the facility.

19 ~~SEC. 8.~~

20 *SEC. 9.* Section 353.11 of the Public Utilities Code is amended  
21 to read:

22 353.11. A local publicly owned electric utility or a local  
23 publicly owned utility otherwise providing electrical service, shall  
24 review at the earliest practicable date its rates, tariffs, and rules to  
25 identify barriers to and determine the appropriate balance of costs  
26 and benefits of distributed energy resources in order to facilitate  
27 the installation of these resources in the interests of their  
28 customer-owners and the state, and shall hold at least one noticed  
29 public meeting to solicit public comment on the review and any  
30 recommended changes. However, notwithstanding any other  
31 provision of this article, such an entity has the sole authority to  
32 undertake such a review and to make modifications to its rates,  
33 tariffs, and rules as the governing body of that utility determines  
34 to be necessary.

35 ~~SEC. 9.~~

36 *SEC. 10.* Section 366.2 of the Public Utilities Code is amended  
37 to read:

38 366.2. (a) (1) Customers shall be entitled to aggregate their  
39 electric loads as members of their local community with  
40 community choice aggregators.

1 (2) Customers may aggregate their loads through a public  
2 process with community choice aggregators; if each customer is  
3 given an opportunity to opt out of their community's aggregation  
4 program.

5 (3) If a customer opts out of a community choice aggregator's  
6 program, or has no community choice program available, that  
7 customer shall have the right to continue to be served by the  
8 existing electrical corporation or its successor in interest.

9 (b) If a public agency seeks to serve as a community choice  
10 aggregator, it shall offer the opportunity to purchase electricity to  
11 all residential customers within its jurisdiction.

12 (c) (1) Notwithstanding Section 366, a community choice  
13 aggregator is hereby authorized to aggregate the electrical load of  
14 interested electricity consumers within its boundaries to reduce  
15 transaction costs to consumers, provide consumer protections, and  
16 leverage the negotiation of contracts. However, the community  
17 choice aggregator may not aggregate electrical load if that load is  
18 served by a local publicly owned electric utility. A community  
19 choice aggregator may group retail electricity customers to solicit  
20 bids, broker, and contract for electricity and energy services for  
21 those customers. The community choice aggregator may enter into  
22 agreements for services to facilitate the sale and purchase of  
23 electricity and other related services. Those service agreements  
24 may be entered into by a single city or county, a city and county,  
25 or by a group of cities, cities and counties, or counties.

26 (2) Under community choice aggregation, customer participation  
27 may not require a positive written declaration, but all customers  
28 shall be informed of their right to opt out of the community choice  
29 aggregation program. If no negative declaration is made by a  
30 customer, that customer shall be served through the community  
31 choice aggregation program.

32 (3) A community choice aggregator establishing electrical load  
33 aggregation pursuant to this section shall develop an  
34 implementation plan detailing the process and consequences of  
35 aggregation. The implementation plan, and any subsequent changes  
36 to it, shall be considered and adopted at a duly noticed public  
37 hearing. The implementation plan shall contain all of the following:

38 (A) An organizational structure of the program, its operations,  
39 and its funding.

40 (B) Ratesetting and other costs to participants.

1 (C) Provisions for disclosure and due process in setting rates  
2 and allocating costs among participants.

3 (D) The methods for entering and terminating agreements with  
4 other entities.

5 (E) The rights and responsibilities of program participants,  
6 including, but not limited to, consumer protection procedures,  
7 credit issues, and shutoff procedures.

8 (F) Termination of the program.

9 (G) A description of the third parties that will be supplying  
10 electricity under the program, including, but not limited to,  
11 information about financial, technical, and operational capabilities.

12 (4) A community choice aggregator establishing electrical load  
13 aggregation shall prepare a statement of intent with the  
14 implementation plan. Any community choice load aggregation  
15 established pursuant to this section shall provide for the following:

16 (A) Universal access.

17 (B) Reliability.

18 (C) Equitable treatment of all classes of customers.

19 (D) Any requirements established by state law or by the  
20 commission concerning aggregated service.

21 (5) In order to determine the cost-recovery mechanism to be  
22 imposed on the community choice aggregator pursuant to  
23 subdivisions (d), (e), and (f) that shall be paid by the customers of  
24 the community choice aggregator to prevent shifting of costs, the  
25 community choice aggregator shall file the implementation plan  
26 with the commission, and any other information requested by the  
27 commission that the commission determines is necessary to develop  
28 the cost-recovery mechanism in subdivisions (d), (e), and (f).

29 (6) The commission shall notify any electrical corporation  
30 serving the customers proposed for aggregation that an  
31 implementation plan initiating community choice aggregation has  
32 been filed, within 10 days of the filing.

33 (7) Within 90 days after the community choice aggregator  
34 establishing load aggregation files its implementation plan, the  
35 commission shall certify that it has received the implementation  
36 plan, including any additional information necessary to determine  
37 a cost-recovery mechanism. After certification of receipt of the  
38 implementation plan and any additional information requested,  
39 the commission shall then provide the community choice  
40 aggregator with its findings regarding any cost recovery that must

1 be paid by customers of the community choice aggregator to  
2 prevent a shifting of costs as provided for in subdivisions (d), (e),  
3 and (f).

4 (8) No entity proposing community choice aggregation shall  
5 act to furnish electricity to electricity consumers within its  
6 boundaries until the commission determines the cost-recovery that  
7 must be paid by the customers of that proposed community choice  
8 aggregation program, as provided for in subdivisions (d), (e), and  
9 (f). The commission shall designate the earliest possible effective  
10 date for implementation of a community choice aggregation  
11 program, taking into consideration the impact on any annual  
12 procurement plan of the electrical corporation that has been  
13 approved by the commission.

14 (9) All electrical corporations shall cooperate fully with any  
15 community choice aggregators that investigate, pursue, or  
16 implement community choice aggregation programs. Cooperation  
17 shall include providing the entities with appropriate billing and  
18 electrical load data, including, but not limited to, data detailing  
19 electricity needs and patterns of usage, as determined by the  
20 commission, and in accordance with procedures established by  
21 the commission. Electrical corporations shall continue to provide  
22 all metering, billing, collection, and customer service to retail  
23 customers that participate in community choice aggregation  
24 programs. Bills sent by the electrical corporation to retail customers  
25 shall identify the community choice aggregator as providing the  
26 electrical energy component of the bill. The commission shall  
27 determine the terms and conditions under which the electrical  
28 corporation provides services to community choice aggregators  
29 and retail customers.

30 (10) (A) A city, county, or city and county that elects to  
31 implement a community choice aggregation program within its  
32 jurisdiction pursuant to this chapter shall do so by ordinance.

33 (B) Two or more cities, counties, or cities and counties may  
34 participate as a group in a community choice aggregation pursuant  
35 to this chapter, through a joint powers agency established pursuant  
36 to Chapter 5 (commencing with Section 6500) of Division 7 of  
37 Title 1 of the Government Code, if each entity adopts an ordinance  
38 pursuant to subparagraph (A).

39 (11) Following adoption of aggregation through the ordinance  
40 described in paragraph (10), the program shall allow any retail

1 customer to opt out and to continue to be served as a bundled  
2 service customer by the existing electrical corporation, or its  
3 successor in interest. Delivery services shall be provided at the  
4 same rates, terms, and conditions, as approved by the commission,  
5 for community choice aggregation customers and customers that  
6 have entered into a direct transaction where applicable, as  
7 determined by the commission. Once enrolled in the aggregated  
8 entity, any ratepayer that chooses to opt out within 60 days or two  
9 billing cycles of the date of enrollment may do so without penalty  
10 and shall be entitled to receive default service pursuant to paragraph  
11 (3) of subdivision (a). Customers that return to the electrical  
12 corporation for procurement services shall be subject to the same  
13 terms and conditions as are applicable to other returning direct  
14 access customers from the same class, as determined by the  
15 commission, as authorized by the commission pursuant to this  
16 code or any other provision of law. Any reentry fees to be imposed  
17 after the opt-out period specified in this paragraph, shall be  
18 approved by the commission and shall reflect the cost of reentry.  
19 The commission shall exclude any amounts previously determined  
20 and paid pursuant to subdivisions (d), (e), and (f) from the cost of  
21 reentry.

22 (12) Nothing in this section shall be construed as authorizing  
23 any city or any community choice retail load aggregator to restrict  
24 the ability of retail electricity customers to obtain or receive service  
25 from any authorized electric service provider in a manner consistent  
26 with law.

27 (13) (A) The community choice aggregator shall fully inform  
28 participating customers at least twice within two calendar months,  
29 or 60 days, in advance of the date of commencing automatic  
30 enrollment. Notifications may occur concurrently with billing  
31 cycles. Following enrollment, the aggregated entity shall fully  
32 inform participating customers for not less than two consecutive  
33 billing cycles. Notification may include, but is not limited to, direct  
34 mailings to customers, or inserts in water, sewer, or other utility  
35 bills. Any notification shall inform customers of both of the  
36 following:

37 (i) That they are to be automatically enrolled and that the  
38 customer has the right to opt out of the community choice  
39 aggregator without penalty.

40 (ii) The terms and conditions of the services offered.

1 (B) The community choice aggregator may request the  
2 commission to approve and order the electrical corporation to  
3 provide the notification required in subparagraph (A). If the  
4 commission orders the electrical corporation to send one or more  
5 of the notifications required pursuant to subparagraph (A) in the  
6 electrical corporation's normally scheduled monthly billing  
7 process, the electrical corporation shall be entitled to recover from  
8 the community choice aggregator all reasonable incremental costs  
9 it incurs related to the notification or notifications. The electrical  
10 corporation shall fully cooperate with the community choice  
11 aggregator in determining the feasibility and costs associated with  
12 using the electrical corporation's normally scheduled monthly  
13 billing process to provide one or more of the notifications required  
14 pursuant to subparagraph (A).

15 (C) Each notification shall also include a mechanism by which  
16 a ratepayer may opt out of community choice aggregated service.  
17 The opt out may take the form of a self-addressed return postcard  
18 indicating the customer's election to remain with, or return to,  
19 electrical energy service provided by the electrical corporation, or  
20 another straightforward means by which the customer may elect  
21 to derive electrical energy service through the electrical corporation  
22 providing service in the area.

23 (14) The community choice aggregator shall register with the  
24 commission, which may require additional information to ensure  
25 compliance with basic consumer protection rules and other  
26 procedural matters.

27 (15) Once the community choice aggregator's contract is signed,  
28 the community choice aggregator shall notify the applicable  
29 electrical corporation that community choice service will  
30 commence within 30 days.

31 (16) Once notified of a community choice aggregator program,  
32 the electrical corporation shall transfer all applicable accounts to  
33 the new supplier within a 30-day period from the date of the close  
34 of their normally scheduled monthly metering and billing process.

35 (17) An electrical corporation shall recover from the community  
36 choice aggregator any costs reasonably attributable to the  
37 community choice aggregator, as determined by the commission,  
38 of implementing this section, including, but not limited to, all  
39 business and information system changes, except for  
40 transaction-based costs as described in this paragraph. Any costs

1 not reasonably attributable to a community choice aggregator shall  
2 be recovered from ratepayers, as determined by the commission.  
3 All reasonable transaction-based costs of notices, billing, metering,  
4 collections, and customer communications or other services  
5 provided to an aggregator or its customers shall be recovered from  
6 the aggregator or its customers on terms and at rates to be approved  
7 by the commission.

8 (18) At the request and expense of any community choice  
9 aggregator, electrical corporations shall install, maintain and  
10 calibrate metering devices at mutually agreeable locations within  
11 or adjacent to the community aggregator's political boundaries.  
12 The electrical corporation shall read the metering devices and  
13 provide the data collected to the community aggregator at the  
14 aggregator's expense. To the extent that the community aggregator  
15 requests a metering location that would require alteration or  
16 modification of a circuit, the electrical corporation shall only be  
17 required to alter or modify a circuit if such alteration or  
18 modification does not compromise the safety, reliability or  
19 operational flexibility of the electrical corporation's facilities. All  
20 costs incurred to modify circuits pursuant to this paragraph, shall  
21 be ~~born~~ borne by the community aggregator.

22 (d) (1) It is the intent of the Legislature that each retail end-use  
23 customer that has purchased power from an electrical corporation  
24 on or after February 1, 2001, should bear a fair share of the  
25 Department of Water Resources' electricity purchase costs, as well  
26 as electricity purchase contract obligations incurred as of the  
27 effective date of the act adding this section, that are recoverable  
28 from electrical corporation customers in commission-approved  
29 rates. It is further the intent of the Legislature to prevent any  
30 shifting of recoverable costs between customers.

31 (2) The Legislature finds and declares that this subdivision is  
32 consistent with the requirements of Division 27 (commencing with  
33 Section 80000) of the Water Code and Section 360.5, and is  
34 therefore declaratory of existing law.

35 (e) A retail end-use customer that purchases electricity from a  
36 community choice aggregator pursuant to this section shall pay  
37 both of the following:

38 (1) A charge equivalent to the charges that would otherwise be  
39 imposed on the customer by the commission to recover  
40 bond-related costs pursuant to any agreement between the

1 commission and the Department of Water Resources pursuant to  
2 Section 80110 of the Water Code, which charge shall be payable  
3 until any obligations of the Department of Water Resources  
4 pursuant to Division 27 (commencing with Section 80000) of the  
5 Water Code are fully paid or otherwise discharged.

6 (2) Any additional costs of the Department of Water Resources,  
7 equal to the customer's proportionate share of the Department of  
8 Water Resources' estimated net unavoidable electricity purchase  
9 contract costs as determined by the commission, for the period  
10 commencing with the customer's purchases of electricity from the  
11 community choice aggregator, through the expiration of all then  
12 existing electricity purchase contracts entered into by the  
13 Department of Water Resources.

14 (f) A retail end-use customer purchasing electricity from a  
15 community choice aggregator pursuant to this section shall  
16 reimburse the electrical corporation that previously served the  
17 customer for all of the following:

18 (1) The electrical corporation's unrecovered past  
19 undercollections for electricity purchases, including any financing  
20 costs, attributable to that customer, that the commission lawfully  
21 determines may be recovered in rates.

22 (2) Any additional costs of the electrical corporation recoverable  
23 in commission-approved rates, equal to the share of the electrical  
24 corporation's estimated net unavoidable electricity purchase  
25 contract costs attributable to the customer, as determined by the  
26 commission, for the period commencing with the customer's  
27 purchases of electricity from the community choice aggregator,  
28 through the expiration of all then existing electricity purchase  
29 contracts entered into by the electrical corporation.

30 (g) (1) Any charges imposed pursuant to subdivision (e) shall  
31 be the property of the Department of Water Resources. Any charges  
32 imposed pursuant to subdivision (f) shall be the property of the  
33 electrical corporation. The commission shall establish mechanisms,  
34 including agreements with, or orders with respect to, electrical  
35 corporations necessary to ensure that charges payable pursuant to  
36 this section shall be promptly remitted to the party entitled to  
37 payment.

38 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)  
39 shall be nonbypassable.

1 (h) Notwithstanding Section 80110 of the Water Code, the  
2 commission shall authorize community choice aggregation only  
3 if the commission imposes a cost-recovery mechanism pursuant  
4 to subdivisions (d), (e), (f), and (g). Except as provided by this  
5 subdivision, this section shall not alter the suspension by the  
6 commission of direct purchases of electricity from alternate  
7 providers other than by community choice aggregators, pursuant  
8 to Section 80110 of the Water Code.

9 (i) (1) The commission shall not authorize community choice  
10 aggregation until it implements a cost-recovery mechanism,  
11 consistent with subdivisions (d), (e), and (f), that is applicable to  
12 customers that elected to purchase electricity from an alternate  
13 provider between February 1, 2001, and January 1, 2003.

14 (2) The commission shall not authorize community choice  
15 aggregation until it submits a report certifying compliance with  
16 paragraph (1) to the Senate Energy, Utilities and Communications  
17 Committee, or its successor, and the Assembly Committee on  
18 Utilities and Commerce, or its successor.

19 (3) The commission shall not authorize community choice  
20 aggregation until it has adopted rules for implementing community  
21 choice aggregation.

22 (j) The commission shall prepare and submit to the Legislature,  
23 on or before January 1, 2006, a report regarding the number of  
24 community choices aggregations, the number of customers served  
25 by community choice aggregations, third-party suppliers to  
26 community choice aggregations, compliance with this section, and  
27 the overall effectiveness of community choice aggregation  
28 programs.

29 ~~SEC. 10.~~

30 *SEC. 11.* Section 380 of the Public Utilities Code is amended  
31 to read:

32 380. (a) The commission, in consultation with the Independent  
33 System Operator, shall establish resource adequacy requirements  
34 for all load-serving entities.

35 (b) In establishing resource adequacy requirements, the  
36 commission shall achieve all of the following objectives:

37 (1) Facilitate development of new generating capacity and  
38 retention of existing generating capacity that is economic and  
39 needed.

1 (2) Equitably allocate the cost of generating capacity and prevent  
2 shifting of costs between customer classes.

3 (3) Minimize enforcement requirements and costs.

4 (c) Each load-serving entity shall maintain physical generating  
5 capacity adequate to meet its load requirements, including, but not  
6 limited to, peak demand and planning and operating reserves. The  
7 generating capacity shall be deliverable to locations and at times  
8 as may be necessary to provide reliable electric service.

9 (d) Each load-serving entity shall, at a minimum, meet the most  
10 recent minimum planning reserve and reliability criteria approved  
11 by the Board of Trustees of the Western Systems Coordinating  
12 Council or the Western Electricity Coordinating Council.

13 (e) The commission shall implement and enforce the resource  
14 adequacy requirements established in accordance with this section  
15 in a nondiscriminatory manner. Each load-serving entity shall be  
16 subject to the same requirements for resource adequacy and the  
17 renewables portfolio standard program that are applicable to  
18 electrical corporations pursuant to this section, or otherwise  
19 required by law, or by order or decision of the commission. The  
20 commission shall exercise its enforcement powers to ensure  
21 compliance by all load-serving entities.

22 (f) The commission shall require sufficient information,  
23 including, but not limited to, anticipated load, actual load, and  
24 measures undertaken by a load-serving entity to ensure resource  
25 adequacy, to be reported to enable the commission to determine  
26 compliance with the resource adequacy requirements established  
27 by the commission.

28 (g) An electrical corporation's costs of meeting resource  
29 adequacy requirements, including, but not limited to, the costs  
30 associated with system reliability and local area reliability, that  
31 are determined to be reasonable by the commission, or are  
32 otherwise recoverable under a procurement plan approved by the  
33 commission pursuant to Section 454.5, shall be fully recoverable  
34 from those customers on whose behalf the costs are incurred, as  
35 determined by the commission, at the time the commitment to  
36 incur the cost is made or thereafter, on a fully nonbypassable basis,  
37 as determined by the commission. The commission shall exclude  
38 any amounts authorized to be recovered pursuant to Section 366.2  
39 when authorizing the amount of costs to be recovered from  
40 customers of a community choice aggregator or from customers

1 that purchase electricity through a direct transaction pursuant to  
2 this subdivision.

3 (h) The commission shall determine and authorize the most  
4 efficient and equitable means for achieving all of the following:

5 (1) Meeting the objectives of this section.

6 (2) Ensuring that investment is made in new generating capacity.

7 (3) Ensuring that existing generating capacity that is economic  
8 is retained.

9 (4) Ensuring that the cost of generating capacity is allocated  
10 equitably.

11 (i) In making the determination pursuant to subdivision (h), the  
12 commission may consider a centralized resource adequacy  
13 mechanism among other options.

14 (j) For purposes of this section, “load-serving entity” means an  
15 electrical corporation, electric service provider, or community  
16 choice aggregator. “Load-serving entity” does not include any of  
17 the following:

18 (1) A local publicly owned electric utility.

19 (2) The State Water Resources Development System commonly  
20 known as the State Water Project.

21 (3) Customer generation located on the customer’s site or  
22 providing electric service through arrangements authorized by  
23 Section 218, if the customer generation, or the load it serves, meets  
24 one of the following criteria:

25 (A) It takes standby service from the electrical corporation on  
26 a commission-approved rate schedule that provides for adequate  
27 backup planning and operating reserves for the standby customer  
28 class.

29 (B) It is not physically interconnected to the electric transmission  
30 or distribution grid, so that, if the customer generation fails, backup  
31 electricity is not supplied from the electricity grid.

32 (C) There is physical assurance that the load served by the  
33 customer generation will be curtailed concurrently and  
34 commensurately with an outage of the customer generation.

35 ~~SEC. 11.~~

36 *SEC. 12.* Section 387 of the Public Utilities Code is amended  
37 to read:

38 387. (a) Each governing body of a local publicly owned electric  
39 utility shall be responsible for implementing and enforcing a  
40 renewables portfolio standard that recognizes the intent of the

1 Legislature to encourage renewable resources, while taking into  
2 consideration the effect of the standard on rates, reliability, and  
3 financial resources and the goal of environmental improvement.

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

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

11 (2) The resource mix used to serve its customers by fuel type.  
12 Reports shall contain the contribution of each type of renewable  
13 energy resource with separate categories for those fuels that are  
14 eligible renewable energy resources as defined in Section 399.12,  
15 except that the electricity is delivered to the local publicly owned  
16 electric utility and not a retail seller. Electricity shall be reported  
17 as having been delivered to the local publicly owned electric utility  
18 from an eligible renewable energy resource when the electricity  
19 would qualify for compliance with the renewables portfolio  
20 standard if it were delivered to a retail seller.

21 (3) The utility's status in implementing a renewables portfolio  
22 standard pursuant to subdivision (a) and the utility's progress  
23 toward attaining the standard following implementation.

24 ~~SEC. 12.~~

25 *SEC. 13.* Section 387.5 of the Public Utilities Code is amended  
26 to read:

27 387.5. (a) In order to further the state goal of encouraging the  
28 installation of 3,000 megawatts of photovoltaic solar energy in  
29 California within 10 years, the governing body of a local publicly  
30 owned electric utility that sells electricity at retail, shall adopt,  
31 implement, and finance a solar initiative program, funded in  
32 accordance with subdivision (b), for the purpose of investing in,  
33 and encouraging the increased installation of, residential and  
34 commercial solar energy systems.

35 (b) On or before January 1, 2008, a local publicly owned electric  
36 utility shall offer monetary incentives for the installation of solar  
37 energy systems of at least two dollars and eighty cents (\$2.80) per  
38 installed watt, or for the electricity produced by the solar energy  
39 system, measured in kilowatthours, as determined by the governing  
40 board of a local publicly owned electric utility, for photovoltaic

1 solar energy systems. The incentive level shall decline each year  
2 thereafter at a rate of no less than an average of 7 percent per year.

3 (c) A local publicly owned electric utility shall initiate a public  
4 proceeding to fund a solar energy program to adequately support  
5 the goal of installing 3,000 megawatts of photovoltaic solar energy  
6 in California. The proceeding shall determine what additional  
7 funding, if any, is necessary to provide the incentives pursuant to  
8 subdivision (b). The public proceeding shall be completed and the  
9 comprehensive solar energy program established by January 1,  
10 2008.

11 (d) The solar energy program of a local publicly owned electric  
12 utility shall be consistent with all of the following:

13 (1) That a solar energy system receiving monetary incentives  
14 comply with the eligibility criteria, design, installation, and  
15 electrical output standards or incentives established by the State  
16 Energy Resources Conservation and Development Commission  
17 pursuant to Section 25782 of the Public Resources Code.

18 (2) That solar energy systems receiving monetary incentives  
19 are intended primarily to offset part or all of the consumer's own  
20 electricity demand.

21 (3) That all components in the solar energy system are new and  
22 unused, and have not previously been placed in service in any  
23 other location or for any other application.

24 (4) That the solar energy system has a warranty of not less than  
25 10 years to protect against defects and undue degradation of  
26 electrical generation output.

27 (5) That the solar energy system be located on the same premises  
28 of the end-use consumer where the consumer's own electricity  
29 demand is located.

30 (6) That the solar energy system be connected to the electric  
31 utility's electrical distribution system within the state.

32 (7) That the solar energy system has meters or other devices in  
33 place to monitor and measure the system's performance and the  
34 quantity of electricity generated by the system.

35 (8) That the solar energy system be installed in conformance  
36 with the manufacturer's specifications and in compliance with all  
37 applicable electrical and building code standards.

38 (e) A local publicly owned electric utility shall, on an annual  
39 basis beginning June 1, 2008, make available to its customers, to  
40 the Legislature, and to the State Energy Resources Conservation

1 and Development Commission, information relating to the utility's  
2 solar initiative program established pursuant to this section,  
3 including, but not limited to, the number of photovoltaic solar  
4 watts installed, the total number of photovoltaic systems installed,  
5 the total number of applicants, the amount of incentives awarded,  
6 and the contribution toward the program goals.

7 (f) In establishing the program required by this section, no  
8 moneys shall be diverted from any existing programs for  
9 low-income ratepayers, or from cost-effective energy efficiency  
10 or demand response programs.

11 (g) The statewide expenditures for solar programs adopted,  
12 implemented, and financed by local publicly owned electric utilities  
13 shall be seven hundred eighty-four million dollars (\$784,000,000).  
14 The expenditure level for each local publicly owned electric utility  
15 shall be based on that utility's percentage of the total statewide  
16 load served by all local publicly owned electric utilities.  
17 Expenditures by a local publicly owned electric utility may be less  
18 than the utility's cap amount, provided that funding is adequate to  
19 provide the incentives required by subdivisions (a) and (b).

20 ~~SEC. 13.~~

21 *SEC. 14.* Section 394.5 of the Public Utilities Code is amended  
22 to read:

23 394.5. (a) Except for an electrical corporation as defined in  
24 Section 218, or a local publicly owned electric utility offering  
25 electrical service to residential and small commercial customers  
26 within its service territory, each electric service provider offering  
27 electrical service to residential and small commercial customers  
28 shall, prior to the commencement of service, provide the potential  
29 customer with a written notice of the service describing the price,  
30 terms, and conditions of the service. The notices shall include all  
31 of the following:

32 (1) A clear description of the price, terms, and conditions of  
33 service, including:

34 (A) The price of electricity expressed in a format which makes  
35 it possible for residential and small commercial customers to  
36 compare and select among similar products and services on a  
37 standard basis. The commission shall adopt rules to implement  
38 this subdivision. The commission shall require disclosure of the  
39 total price of electricity on a cents-per-kilowatt-hour basis, including  
40 the costs of all electric services and charges regulated by the

1 commission. The commission shall also require estimates of the  
2 total monthly bill for the electric service at varying consumption  
3 levels, including the costs of all electric services and charges  
4 regulated by the commission. In determining these rules, the  
5 commission may consider alternatives to the ~~cent-per-kilowatthour~~  
6 *cents-per-kilowatthour* disclosure if other information would  
7 provide the customer with sufficient information to compare among  
8 alternatives on a standard basis.

9 (B) Separate disclosure of all recurring and nonrecurring charges  
10 associated with the sale of electricity.

11 (C) If services other than electricity are offered, an itemization  
12 of the services and the charge or charges associated with each.

13 (2) An explanation of the applicability and amount of the  
14 competition transition charge, as determined pursuant to Sections  
15 367 to 376, inclusive.

16 (3) A description of the potential customer's right to rescind  
17 the contract without fee or penalty as described in Section 395.

18 (4) An explanation of the customer's financial obligations, as  
19 well as the procedures regarding past due payments, discontinuance  
20 of service, billing disputes, and service complaints.

21 (5) The electric service provider's registration number, if  
22 applicable.

23 (6) The right to change service providers upon written notice,  
24 including disclosure of any fees or penalties assessed by the  
25 supplier for early termination of a contract.

26 (7) A description of the availability of low-income assistance  
27 programs for qualified customers and how customers can apply  
28 for these programs.

29 (b) The commission may assist electric service providers in  
30 developing the notice. The commission may suggest inclusion of  
31 additional information it deems necessary for the consumer  
32 protection purposes of this section. On at least a semiannual basis,  
33 electric service providers shall provide the commission with a copy  
34 of the form of notice included in standard service plans made  
35 available to residential and small commercial customers as  
36 described in subdivision (a) of Section 392.1.

37 (c) Any electric service provider offering electric services who  
38 declines to provide those services to a consumer shall, upon request  
39 of the consumer, disclose to that consumer the reason for the denial  
40 in writing within 30 days. At the time service is denied, the electric

1 service provider shall disclose to the consumer his or her right to  
2 make this request. Consumers shall have at least 30 days from the  
3 date service is denied to make the request.

4 ~~SEC. 14.~~

5 *SEC. 15.* Section 395.5 of the Public Utilities Code is amended  
6 to read:

7 395.5. (a) For purposes of this section, the following terms  
8 have the following meanings:

9 (1) “Nonprofit charitable organization” means any charitable  
10 organization described in Section 501(c)(3) of the federal Internal  
11 Revenue Code that has as its primary purpose serving the needs  
12 of the poor or elderly.

13 (2) “Electric commodity” means electricity used by the customer  
14 or a supply of electricity available for use by the customer, and  
15 does not include services associated with the transmission and  
16 distribution of electricity.

17 (b) Notwithstanding Section 80110 of the Water Code, a  
18 nonprofit charitable organization may acquire electric commodity  
19 service through a direct transaction with an electric service provider  
20 if electric commodity service is donated free of charge without  
21 compensation.

22 (c) A nonprofit charitable organization that acquires donated  
23 electric commodity service through a direct transaction pursuant  
24 to this section shall be responsible for paying all of the following:

25 (1) Those charges and surcharges that would be imposed upon  
26 a retail end-use customer of a community aggregator pursuant to  
27 subdivisions (d), (e), (f), and (g) of Section 366.2.

28 (2) The transmission and distribution charges of an electrical  
29 corporation or a local publicly owned electric utility.

30 (3) A nonbypassable charge imposed pursuant to Article 7  
31 (commencing with Section 381), Article 8 (commencing with  
32 Section 385), or Article 15 (commencing with Section 399).

33 (4) Costs imposed upon a load-serving entity pursuant to Section  
34 380.

35 (d) Existing direct access rules and all service obligations  
36 otherwise applicable to electric service providers shall govern  
37 transactions under this section.

38 (e) This section shall remain in effect only until January 1, 2010,  
39 and as of that date is repealed, unless a later enacted statute, that  
40 is enacted before January 1, 2010, deletes or extends that date.

1     ~~SEC. 15.~~

2     ~~SEC. 16.~~ The heading of Article 15 (commencing with Section  
3 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
4 Code, as added by Section 4 of Chapter 1051 of the Statutes of  
5 2000, is repealed.

6     ~~SEC. 16.~~

7     ~~SEC. 17.~~ Section 399.1 of the Public Utilities Code is repealed.

8     ~~SEC. 17.~~

9     ~~SEC. 18.~~ Section 399.12 of the Public Utilities Code is amended  
10 to read:

11     399.12. For purposes of this article, the following terms have  
12 the following meanings:

13     (a) “Conduit hydroelectric facility” means a facility for the  
14 generation of electricity that uses only the hydroelectric potential  
15 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other  
16 manmade conduit that is operated to distribute water for a  
17 beneficial use.

18     (b) “Delivered” and “delivery” have the same meaning as  
19 provided in subdivision (a) of Section 25741 of the Public  
20 Resources Code.

21     (c) “Eligible renewable energy resource” means an electric  
22 generating facility that meets the definition of “in-state renewable  
23 electricity generation facility” in Section 25741 of the Public  
24 Resources Code, subject to the following limitations:

25     (1) (A) An existing small hydroelectric generation facility of  
26 30 megawatts or less shall be eligible only if a retail seller *or local*  
27 *publicly owned electric utility* owned or procured the electricity  
28 from the facility as of December 31, 2005. A new hydroelectric  
29 facility is not an eligible renewable energy resource if it will cause  
30 an adverse impact on instream beneficial uses or cause a change  
31 in the volume or timing of streamflow.

32     (B) Notwithstanding subparagraph (A), a conduit hydroelectric  
33 facility of 30 megawatts or less that commenced operation before  
34 January 1, 2006, is an eligible renewable energy resource. A  
35 conduit hydroelectric facility of 30 megawatts or less that  
36 commences operation after December 31, 2005, is an eligible  
37 renewable energy resource so long as it does not cause an adverse  
38 impact on instream beneficial uses or cause a change in the volume  
39 or timing of streamflow.

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

5 (d) “Procure” means that a retail seller *or local publicly owned*  
6 *electric utility* receives delivered electricity generated by an eligible  
7 renewable energy resource that it owns or for which it has entered  
8 into an electricity purchase agreement. Nothing in this article is  
9 intended to imply that the purchase of electricity from third parties  
10 in a wholesale transaction is the preferred method of fulfilling a  
11 retail seller’s obligation to comply with this article *or the obligation*  
12 *of a local publicly owned electric utility to meet its renewables*  
13 *portfolio standard implemented pursuant to Section 387.*

14 (e) “Renewables portfolio standard” means the specified  
15 percentage of electricity generated by eligible renewable energy  
16 resources that a retail seller is required to procure pursuant to this  
17 article *or the obligation of a local publicly owned electric utility*  
18 *to meet its renewables portfolio standard implemented pursuant*  
19 *to Section 387.*

20 (f) (1) “Renewable energy credit” means a certificate of proof,  
21 issued through the accounting system established by the Energy  
22 Commission pursuant to Section 399.13, that one unit of electricity  
23 was generated and delivered by an eligible renewable energy  
24 resource.

25 (2) “Renewable energy credit” includes all renewable and  
26 environmental attributes associated with the production of  
27 electricity from the eligible renewable energy resource, except for  
28 an emissions reduction credit issued pursuant to Section 40709 of  
29 the Health and Safety Code and any credits or payments associated  
30 with the reduction of solid waste and treatment benefits created  
31 by the utilization of biomass or biogas fuels.

32 (3) No electricity generated by an eligible renewable energy  
33 resource attributable to the use of nonrenewable fuels, beyond a  
34 de minimus quantity, as determined by the Energy Commission,  
35 shall result in the creation of a renewable energy credit.

36 (g) “Retail seller” means an entity engaged in the retail sale of  
37 electricity to end-use customers located within the state, including  
38 any of the following:

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

1 (2) A community choice aggregator. The commission shall  
2 institute a rulemaking to determine the manner in which a  
3 community choice aggregator will participate in the renewables  
4 portfolio standard program subject to the same terms and conditions  
5 applicable to an electrical corporation.

6 (3) An electric service provider, as defined in Section 218.3,  
7 for all sales of electricity to customers beginning January 1, 2006.  
8 The commission shall institute a rulemaking to determine the  
9 manner in which electric service providers will participate in the  
10 renewables portfolio standard program. The electric service  
11 provider shall be subject to the same terms and conditions  
12 applicable to an electrical corporation pursuant to this article.  
13 Nothing in this paragraph shall impair a contract entered into  
14 between an electric service provider and a retail customer prior to  
15 the suspension of direct access by the commission pursuant to  
16 Section 80110 of the Water Code.

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

18 (A) A corporation or person employing cogeneration technology  
19 or producing electricity consistent with subdivision (b) of Section  
20 218.

21 (B) The Department of Water Resources acting in its capacity  
22 pursuant to Division 27 (commencing with Section 80000) of the  
23 Water Code.

24 (C) A local publicly owned electric utility.

25 *SEC. 19. Section 399.12.5 of the Public Utilities Code is*  
26 *amended to read:*

27 399.12.5. (a) Notwithstanding subdivision (c) of Section  
28 399.12, a small hydroelectric generation facility that satisfies the  
29 criteria for an eligible renewable energy resource pursuant to  
30 Section 399.12 shall not lose its eligibility if efficiency  
31 improvements undertaken after January 1, 2008, cause the  
32 generating capacity of the facility to exceed 30 megawatts, and  
33 the efficiency improvements do not result in an adverse impact on  
34 instream beneficial uses or cause a change in the volume or timing  
35 of streamflow. The entire generating capacity of the facility shall  
36 be eligible.

37 (b) Notwithstanding subdivision (c) of Section 399.12, the  
38 incremental increase in the amount of electricity generated from  
39 a hydroelectric generation facility as a result of efficiency  
40 improvements at the facility, is electricity from an eligible

1 renewable energy resource, without regard to the electrical output  
2 of the facility, if all of the following conditions are met:

3 (1) The incremental increase is the result of efficiency  
4 improvements from a retrofit that do not result in an adverse impact  
5 on instream beneficial uses or cause a change in the volume or  
6 timing of streamflow.

7 (2) The hydroelectric generation facility has, within the  
8 immediately preceding 15 years, received certification from the  
9 State Water Resources Control Board pursuant to Section 401 of  
10 the Clean Water Act (33 U.S.C. Sec. 1341), or has received  
11 certification from a regional board to which the state board has  
12 delegated authority to issue certification, unless the facility is  
13 exempt from certification because there is no potential for discharge  
14 into waters of the United States.

15 (3) The hydroelectric generation facility was operational prior  
16 to January 1, 2007, the efficiency improvements are initiated on  
17 or after January 1, 2008, the efficiency improvements are not the  
18 result of routine maintenance activities, as determined by the  
19 Energy Commission, and the efficiency improvements were not  
20 included in any resource plan sponsored by the facility owner prior  
21 to January 1, 2008.

22 (4) All of the incremental increase in electricity resulting from  
23 the efficiency improvements are demonstrated to result from a  
24 long-term financial commitment by the retail seller *or local*  
25 *publicly owned electric utility*. For purposes of this paragraph,  
26 “long-term financial commitment” means either new ownership  
27 investment in the facility by the retail seller *or local publicly owned*  
28 *electric utility or* a new or renewed contract with a term of 10 or  
29 more years, which includes procurement of the incremental  
30 generation.

31 (c) The incremental increase in the amount of electricity  
32 generated from a hydroelectric generation facility as a result of  
33 efficiency improvements at the facility are not eligible for  
34 supplemental energy payments pursuant to the Renewable Energy  
35 Resources Program (Chapter 8.6 (commencing with Section 25740)  
36 of Division 15 of the Public Resources Code), or a successor  
37 program.

38 ~~SEC. 18.~~

39 *SEC. 20.* Section 399.25 of the Public Utilities Code is amended  
40 and renumbered to read:

1 399.2.5. (a) Notwithstanding any other provision in Sections  
2 1001 to 1013, inclusive, an application of an electrical corporation  
3 for a certificate authorizing the construction of new transmission  
4 facilities shall be deemed to be necessary to the provision of  
5 electric service for purposes of any determination made under  
6 Section 1003 if the commission finds that the new facility is  
7 necessary to facilitate achievement of the renewable power goals  
8 established in Article 16 (commencing with Section 399.11).

9 (b) With respect to a transmission facility described in  
10 subdivision (a), the commission shall take all feasible actions to  
11 ensure that the transmission rates established by the Federal Energy  
12 Regulatory Commission are fully reflected in any retail rates  
13 established by the commission. These actions shall include, but  
14 are not limited to:

15 (1) Making findings, where supported by an evidentiary record,  
16 that those transmission facilities provide benefit to the transmission  
17 network and are necessary to facilitate the achievement of the  
18 renewables portfolio standard established in Article 16  
19 (commencing with Section 399.11).

20 (2) Directing the utility to which the generator will be  
21 interconnected, where the direction is not preempted by federal  
22 law, to seek the recovery through general transmission rates of the  
23 costs associated with the transmission facilities.

24 (3) Asserting the positions described in paragraphs (1) and (2)  
25 to the Federal Energy Regulatory Commission in appropriate  
26 proceedings.

27 (4) Allowing recovery in retail rates of any increase in  
28 transmission costs incurred by an electrical corporation resulting  
29 from the construction of the transmission facilities that are not  
30 approved for recovery in transmission rates by the Federal Energy  
31 Regulatory Commission after the commission determines that the  
32 costs were prudently incurred in accordance with subdivision (a)  
33 of Section 454.

34 ~~SEC. 19.~~

35 *SEC. 21.* The heading of Article 5 (commencing with Section  
36 445) of Chapter 2.5 of Part 1 of Division 1 of the Public Utilities  
37 Code is repealed.

38 ~~SEC. 20.~~

39 *SEC. 22.* Section 701.8 of the Public Utilities Code is amended  
40 to read:

1 701.8. (a) To ensure that electrical corporations do not operate  
2 their transmission and distribution monopolies in a manner that  
3 impedes the ability of the San Francisco Bay Area Rapid Transit  
4 District (BART District) to reduce its electricity cost through the  
5 purchase and delivery of preference power, electrical corporations  
6 shall meet the requirements of this section.

7 (b) Any electrical corporation that owns and operates  
8 transmission and distribution facilities that deliver electricity at  
9 one or more locations to the BART District's system shall, upon  
10 request by the BART District, and without discrimination or delay,  
11 use the same facilities to deliver preference power purchased from  
12 a federal power marketing agency or its successor, or electricity  
13 purchased from a local publicly owned electric utility.

14 (c) Where the BART District purchases electricity at more than  
15 one location, at any voltage, from an electric utility under tariffs  
16 regulated by the commission, the utility shall bill the BART District  
17 for usage as though all the electricity purchased at transmission  
18 level voltages were metered by a single meter at one location and  
19 all the electricity purchased at subtransmission voltages were  
20 metered by a single meter at one location, provided that any billing  
21 for demand charges would be based on the coincident demand of  
22 transmission and distribution metering.

23 (d) If, on or after January 1, 1996, the BART District leases or  
24 has agreed to lease, as special facilities, utility plants for the  
25 purpose of receiving power at transmission level voltages, an  
26 electrical corporation may not terminate the lease without  
27 concurrence from the BART District.

28 (e) When the BART District elects to have electricity delivered  
29 pursuant to subdivision (b), neither Sections 365 and 366, and any  
30 commission regulations, orders, or tariffs, that implement direct  
31 transactions, are applicable, nor is the BART District an electricity  
32 supplier. Neither the commission, nor any electrical corporation  
33 that delivers the federal power or electricity purchased from a local  
34 publicly owned electric utility to the BART District, shall require  
35 that an electricity supplier be designated as a condition of the  
36 delivery of that power.

37 (f) The BART District may elect to obtain electricity from the  
38 following multiple sources at the same time:

- 39 (1) Electricity delivered pursuant to subdivision (b).  
40 (2) Electricity supplied by one or more direct transactions.

1 (3) Electricity from any electrical corporation that owns and  
2 operates transmission and distribution facilities that deliver  
3 electricity at one or more locations to the BART District's system.

4 ~~SEC. 21.~~

5 *SEC. 23.* Section 761.3 of the Public Utilities Code is amended  
6 to read:

7 761.3. (a) Notwithstanding subdivision (g) of Section 216 and  
8 subdivision (c) of Section 218.5, the commission shall implement  
9 and enforce standards for the maintenance and operation of  
10 facilities for the generation of electricity owned by an electrical  
11 corporation or located in the state to ensure their reliable operation.  
12 The commission shall enforce the protocols for the scheduling of  
13 powerplant outages of the Independent System Operator.

14 (b) Nothing in this section authorizes the commission to  
15 establish rates for wholesale sales in interstate commerce from  
16 those facilities, or to approve the sale or transfer of control of  
17 facilities if an exempt wholesale generator, as defined in the Public  
18 Utility Holding Company Act of 2005 (42 U.S.C. Sec. 16451(6)).

19 (c) (1) (A) Except as otherwise provided in this subdivision,  
20 this section shall not apply to nuclear powered generating facilities  
21 that are federally regulated and subject to standards developed by  
22 the Nuclear Regulatory Commission, and that participate as  
23 members of the Institute of Nuclear Power Operations.

24 (B) The owner or operator of a nuclear powered generating  
25 facility shall file with the Oversight Board and the commission an  
26 annual schedule of maintenance, including repairs and upgrades,  
27 updated quarterly, for each generating facility. The owner or  
28 operator of a nuclear powered generating facility shall make good  
29 faith efforts to conduct its maintenance in compliance with its filed  
30 plan and shall report to the Oversight Board and the Independent  
31 System Operator any significant variations from its filed plan.

32 (C) The owner or operator of a nuclear powered generating  
33 facility shall report on a monthly basis to the Oversight Board and  
34 the commission all actual planned and unplanned outages of each  
35 facility during the preceding month. The owner or operator of a  
36 nuclear powered generating facility shall report on a daily basis  
37 to the Oversight Board and the Independent System Operator the  
38 daily operational status and availability of each facility.

39 (2) (A) Except as otherwise provided in this subdivision, this  
40 section shall not apply to a qualifying small power production

1 facility or a qualifying cogeneration facility within the meaning  
2 of Sections 201 and 210 of Title 11 of the federal Public Utility  
3 Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18),  
4 and 824a-3), and the regulations adopted pursuant to those sections  
5 by the Federal Energy Regulatory Commission (18 C.F.R. Secs.  
6 292.101 to 292.602, inclusive), nor shall this section apply to other  
7 generation units installed, operated, and maintained at a customer  
8 site, exclusively to serve that customer's load.

9 (B) An electrical corporation that has a contract with a qualifying  
10 small power production facility, or a qualifying cogeneration  
11 facility, with a nameplate rating of 10 megawatts or greater, shall  
12 report to the Oversight Board and the commission maintenance  
13 schedules for each facility, including all actual planned and  
14 unplanned outages of the facility and the daily operational status  
15 and availability of the facility. Each facility with a name plate  
16 rating of 10 megawatts or greater shall be responsible for directly  
17 reporting to the Oversight Board and the Independent System  
18 Operator maintenance schedules for each facility, including all  
19 actual planned and unplanned outages of the facility and the daily  
20 operational status and availability of the facility, if that information  
21 is not provided to the electrical corporation pursuant to a contract.

22 (d) Nothing in this section shall result in the modification, delay,  
23 or abrogation of any deadline, standard, rule, or regulation adopted  
24 by a federal, state, or local agency for the purposes of protecting  
25 public health or the environment, including, but not limited to, any  
26 requirements imposed by the State Air Resources Board or by an  
27 air pollution control district or an air quality management district  
28 pursuant to Division 26 (commencing with Section 39000) of the  
29 Health and Safety Code. The Independent System Operator shall  
30 consult with the State Air Resources Board and the appropriate  
31 local air pollution control districts and air quality management  
32 districts to coordinate scheduled outages to provide for compliance  
33 with those retrofits.

34 (e) The Independent System Operator shall maintain records of  
35 generation facility outages and shall provide those records to the  
36 Oversight Board and the commission on a daily basis. Each entity  
37 that owns or operates an electric generating unit in California with  
38 a rated maximum capacity of 10 megawatts or greater, shall provide  
39 a monthly report to the Independent System Operator that identifies  
40 any periods during the preceding month when the unit was

1 unavailable to produce electricity or was available only at reduced  
2 capacity. The report shall identify the reasons for any such  
3 unscheduled unavailability or reduced capacity. The Independent  
4 System Operator shall immediately transmit the information to the  
5 Oversight Board and the commission.

6 (f) This section does not apply to any of the following:

7 (1) Facilities owned by a local publicly owned electric utility.

8 (2) Any public agency that may generate electricity incidental  
9 to the provision of water or wastewater treatment.

10 (3) Facilities owned by a city and county operating as a public  
11 utility, furnishing electric service as provided in Section 10001.

12 ~~SEC. 22.~~

13 *SEC. 24.* Section 848 of the Public Utilities Code is amended  
14 to read:

15 848. For the purposes of this article, the following terms shall  
16 have the following meanings:

17 (a) “Consumer” means any individual, governmental body,  
18 trust, business entity or nonprofit organization which consumes  
19 electricity that has been transmitted or distributed by means of  
20 electric transmission or distribution facilities, whether those electric  
21 transmission or distribution facilities are owned by the consumer,  
22 the recovery corporation, or any other party.

23 (b) “Financing entity” means the recovery corporation or any  
24 subsidiary or affiliate of the recovery corporation that is authorized  
25 by the commission to issue recovery bonds or acquire recovery  
26 property, or both.

27 (c) “Financing order” means an order of the commission adopted  
28 in accordance with this article, which shall include, without  
29 limitation, a procedure to require the expeditious approval by the  
30 commission of periodic adjustments to fixed recovery amounts  
31 and to any associated fixed recovery tax amounts included in that  
32 financing order to ensure recovery of all recovery costs and the  
33 costs associated with the proposed recovery, financing, or  
34 refinancing thereof, including the costs of servicing and retiring  
35 the recovery bonds contemplated by the financing order.

36 (d) “Fixed recovery amounts” means those nonbypassable rates  
37 and other charges, including, but not limited to, distribution,  
38 connection, disconnection, and termination rates and charges, that  
39 are authorized by the commission in a financing order to recover  
40 (1) recovery costs specified in the financing order, and (2) the costs

1 of recovering, financing, or refinancing those recovery costs  
2 through a plan approved by the commission in the financing order,  
3 including the costs of servicing and retiring recovery bonds.

4 (e) “Fixed recovery tax amounts” means those nonbypassable  
5 rates and other charges, including, but not limited to, distribution,  
6 connection, disconnection, and termination rates and charges, that  
7 are needed to recover federal and State of California income and  
8 franchise taxes associated with fixed recovery amounts authorized  
9 by the commission in the financing order and that are not financed  
10 from proceeds of recovery bonds.

11 (f) “Recovery bonds” means bonds, notes, certificates of  
12 participation or beneficial interest, or other evidences of  
13 indebtedness or ownership, issued pursuant to an executed  
14 indenture or other agreement of a financing entity, the proceeds  
15 of which are used, directly or indirectly, to recover, finance, or  
16 refinance recovery costs, and that are directly or indirectly secured  
17 by, or payable from, recovery property.

18 (g) “Recovery corporation” means Pacific Gas and Electric  
19 Company, the electrical corporation described in the commission’s  
20 Decision No. 03-12-035.

21 (h) “Recovery costs” means (1) the unamortized balance of the  
22 regulatory asset arising and existing pursuant to the commission’s  
23 Decision No. 03-12-035, (2) federal and State of California income  
24 and franchise taxes associated with recovery of the unamortized  
25 balance of that regulatory asset, (3) costs of issuing recovery bonds,  
26 and (4) professional fees, consultant fees, redemption premiums,  
27 tender premiums and other costs incurred by the recovery  
28 corporation in using proceeds of recovery bonds to acquire  
29 outstanding securities of the recovery corporation.

30 (i) (1) “Recovery property” means the property right created  
31 pursuant to this article, including, without limitation, the right,  
32 title, and interest of the recovery corporation or its transferee:

33 (A) In and to the tariff established pursuant to a financing order,  
34 as adjusted from time to time in accordance with Section 848.1  
35 and the financing order.

36 (B) To be paid the amount that is determined in a financing  
37 order to be the amount that the recovery corporation or its  
38 transferee is lawfully entitled to receive pursuant to the provisions  
39 of this article and the proceeds thereof, and in and to all revenues,  
40 collections, claims, payments, money, or proceeds of or arising

1 from the tariff or constituting fixed recovery amounts that are the  
2 subject of a financing order including those nonbypassable rates  
3 and other charges referred to in subdivision (d).

4 (C) In and to all rights to obtain adjustments to the tariff relating  
5 to fixed recovery amounts pursuant to the terms of Section 848.1  
6 and the financing order.

7 (2) “Recovery property” shall not include the right to be paid  
8 fixed recovery tax amounts.

9 (3) “Recovery property” shall constitute a current property right  
10 notwithstanding the fact that the value of the property right will  
11 depend on consumers using electricity or, in those instances where  
12 consumers are customers of the recovery corporation, the recovery  
13 corporation performing certain services.

14 (j) “Service territory” means the geographical area that the  
15 recovery corporation provided with electric distribution service as  
16 of December 19, 2003.

17 ~~SEC. 23.~~

18 *SEC. 25.* Section 2774.5 of the Public Utilities Code is amended  
19 to read:

20 2774.5. An electrical corporation or local publicly owned  
21 electric utility shall immediately notify the Commissioner of the  
22 California Highway Patrol, the Office of Emergency Services, and  
23 the sheriff and any affected chief of police of the specific area  
24 within their respective law enforcement jurisdictions that will  
25 sustain a planned loss of power as soon as the planned loss becomes  
26 known as to when and where that power loss will occur. The  
27 notification shall include common geographical boundaries, grid  
28 or block numbers of the affected area, and the next anticipated  
29 power loss area designated by the electrical corporation or public  
30 entity during rotating blackouts.

31 ~~SEC. 24.~~

32 *SEC. 26.* Section 2827 of the Public Utilities Code is amended  
33 to read:

34 2827. (a) The Legislature finds and declares that a program  
35 to provide net energy metering, co-energy metering, and wind  
36 energy co-metering for eligible customer-generators is one way  
37 to encourage substantial private investment in renewable energy  
38 resources, stimulate in-state economic growth, reduce demand for  
39 electricity during peak consumption periods, help stabilize  
40 California’s energy supply infrastructure, enhance the continued

1 diversification of California’s energy resource mix, and reduce  
2 interconnection and administrative costs for electricity suppliers.

3 (b) As used in this section, the following terms have the  
4 following meanings:

5 (1) “Co-energy metering” means a program that is the same in  
6 all other respects as a net energy metering program, except that  
7 the local publicly owned electric utility has elected to apply a  
8 generation-to-generation energy and time-of-use credit formula  
9 as provided in subdivision (i).

10 (2) “Electrical cooperative” means an electrical cooperative as  
11 defined in Section 2776.

12 (3) “Electric distribution utility or cooperative” means an  
13 electrical corporation, a local publicly owned electric utility, or an  
14 electrical cooperative, or any other entity, except an electric service  
15 provider, that offers electrical service. This section shall not apply  
16 to a local publicly owned electric utility that serves more than  
17 750,000 customers and that also conveys water to its customers.

18 (4) “Eligible customer-generator” means a residential, small  
19 commercial customer as defined in subdivision (h) of Section 331,  
20 commercial, industrial, or agricultural customer of an electricity  
21 distribution utility or cooperative, who uses a solar or a wind  
22 turbine electrical generating facility, or a hybrid system of both,  
23 with a capacity of not more than one megawatt that is located on  
24 the customer’s owned, leased, or rented premises, is interconnected  
25 and operates in parallel with the electric grid, and is intended  
26 primarily to offset part or all of the customer’s own electrical  
27 requirements.

28 (5) “Net energy metering” means measuring the difference  
29 between the electricity supplied through the electric grid and the  
30 electricity generated by an eligible customer-generator and fed  
31 back to the electric grid over a 12-month period as described in  
32 subdivision (h). An eligible customer-generator who already owns  
33 an existing solar or wind turbine electrical generating facility, or  
34 a hybrid system of both, is eligible to receive net energy metering  
35 service in accordance with this section.

36 (6) “Ratemaking authority” means, for an electrical corporation,  
37 electrical cooperative, or electric service provider, the commission,  
38 and for a local publicly owned electric utility, the local elected  
39 body responsible for setting the rates of the local publicly owned  
40 utility.

1 (7) “Wind energy co-metering” means any wind energy project  
2 greater than 50 kilowatts, but not exceeding one megawatt, where  
3 the difference between the electricity supplied through the electric  
4 grid and the electricity generated by an eligible customer-generator  
5 and fed back to the electric grid over a 12-month period is as  
6 described in subdivision (h). Wind energy co-metering shall be  
7 accomplished pursuant to Section 2827.8.

8 (c) (1) Every electricity distribution utility or cooperative shall  
9 develop a standard contract or tariff providing for net energy  
10 metering, and shall make this standard contract or tariff available  
11 to eligible customer-generators, upon request, on a  
12 first-come-first-served basis until the time that the total rated  
13 generating capacity used by eligible customer-generators exceeds  
14 2.5 percent of the electricity distribution utility or cooperative’s  
15 aggregate customer peak demand. Net energy metering shall be  
16 accomplished using a single meter capable of registering the flow  
17 of electricity in two directions. An additional meter or meters to  
18 monitor the flow of electricity in each direction may be installed  
19 with the consent of the customer-generator, at the expense of the  
20 electricity distribution utility or cooperative, and the additional  
21 metering shall be used only to provide the information necessary  
22 to accurately bill or credit the customer-generator pursuant to  
23 subdivision (h), or to collect solar or wind electric generating  
24 system performance information for research purposes. If the  
25 existing electrical meter of an eligible customer-generator is not  
26 capable of measuring the flow of electricity in two directions, the  
27 customer-generator shall be responsible for all expenses involved  
28 in purchasing and installing a meter that is able to measure  
29 electricity flow in two directions. If an additional meter or meters  
30 are installed, the net energy metering calculation shall yield a result  
31 identical to that of a single meter.

32 (2) (A) On an annual basis, beginning in 2003, every electricity  
33 distribution utility or cooperative shall make available to the  
34 ratemaking authority information on the total rated generating  
35 capacity used by eligible customer-generators that are customers  
36 of that provider in the provider’s service area.

37 (B) An electric service provider operating pursuant to Section  
38 394 shall make available to the ratemaking authority the  
39 information required by this paragraph for each eligible  
40 customer-generator that is their customer for each service area of

1 an electric corporation, local publicly owned electric utility, or  
2 electrical cooperative, in which the customer has net energy  
3 metering.

4 (C) The ratemaking authority shall develop a process for making  
5 the information required by this paragraph available to electricity  
6 distribution utilities and cooperatives, and for using that  
7 information to determine when, pursuant to paragraphs (1) and  
8 (3), an electricity distribution utility or cooperative is not obligated  
9 to provide net energy metering to additional customer-generators  
10 in its service area.

11 (3) An electricity distribution utility or cooperative is not  
12 obligated to provide net energy metering to additional  
13 customer-generators in its service area when the combined total  
14 peak demand of all customer-generators served by all the electricity  
15 distribution utilities or cooperatives in that service area furnishing  
16 net energy metering to eligible customer-generators exceeds 2.5  
17 percent of the aggregate customer peak demand of those electricity  
18 distribution utilities or cooperatives.

19 (4) By January 1, 2010, the commission, in consultation with  
20 the Energy Commission, shall submit a report to the Governor and  
21 the Legislature on the costs and benefits of net energy metering,  
22 wind energy co-metering, and co-energy metering to participating  
23 customers and nonparticipating customers and with options to  
24 replace the economic costs and benefits of net energy metering,  
25 wind energy co-metering, and co-energy metering with a  
26 mechanism that more equitably balances the interests of  
27 participating and nonparticipating customers, and that incorporates  
28 the findings of the report on economic and environmental costs  
29 and benefits of net metering required by subdivision (n).

30 (d) Every electricity distribution utility or cooperative shall  
31 make all necessary forms and contracts for net energy metering  
32 service available for download from the Internet.

33 (e) (1) Every electricity distribution utility or cooperative shall  
34 ensure that requests for establishment of net energy metering are  
35 processed in a time period not exceeding that for similarly situated  
36 customers requesting new electric service, but not to exceed 30  
37 working days from the date it receives a completed application  
38 form for net energy metering service, including a signed  
39 interconnection agreement from an eligible customer-generator

1 and the electric inspection clearance from the governmental  
2 authority having jurisdiction.

3 (2) Every electricity distribution utility or cooperative shall  
4 ensure that requests for an interconnection agreement from an  
5 eligible customer-generator are processed in a time period not to  
6 exceed 30 working days from the date it receives a completed  
7 application form from the eligible customer-generator for an  
8 interconnection agreement.

9 (3) If an electricity distribution utility or cooperative is unable  
10 to process a request within the allowable timeframe pursuant to  
11 paragraph (1) or (2), it shall notify the eligible customer-generator  
12 and the ratemaking authority of the reason for its inability to  
13 process the request and the expected completion date.

14 (f) (1) If a customer participates in direct transactions pursuant  
15 to paragraph (1) of subdivision (b) of Section 365 with an electric  
16 service provider that does not provide distribution service for the  
17 direct transactions, the electricity distribution utility or cooperative  
18 that provides distribution service for an eligible customer-generator  
19 is not obligated to provide net energy metering to the customer.

20 (2) If a customer participates in direct transactions pursuant to  
21 paragraph (1) of subdivision (b) of Section 365 with an electric  
22 service provider, and the customer is an eligible  
23 customer-generator, the electricity distribution utility or cooperative  
24 that provides distribution service for the direct transactions may  
25 recover from the customer's electric service provider the  
26 incremental costs of metering and billing service related to net  
27 energy metering in an amount set by the ratemaking authority.

28 (g) Except for the time-variant kilowatthour pricing portion of  
29 any tariff adopted by the commission pursuant to paragraph (4) of  
30 subdivision (a) of Section 2851, each net energy metering contract  
31 or tariff shall be identical, with respect to rate structure, all retail  
32 rate components, and any monthly charges, to the contract or tariff  
33 to which the same customer would be assigned if the customer did  
34 not use an eligible solar or wind electrical generating facility,  
35 except that eligible customer-generators shall not be assessed  
36 standby charges on the electrical generating capacity or the  
37 kilowatthour production of an eligible solar or wind electrical  
38 generating facility. The charges for all retail rate components for  
39 eligible customer-generators shall be based exclusively on the  
40 customer-generator's net kilowatthour consumption over a

1 12-month period, without regard to the customer-generator's choice  
2 as to whom it purchases electricity that is not self-generated. Any  
3 new or additional demand charge, standby charge, customer charge,  
4 minimum monthly charge, interconnection charge, or any other  
5 charge that would increase an eligible customer-generator's costs  
6 beyond those of other customers who are not eligible  
7 customer-generators in the rate class to which the eligible  
8 customer-generator would otherwise be assigned if the customer  
9 did not own, lease, rent, or otherwise operate an eligible solar or  
10 wind electrical generating facility are contrary to the intent of this  
11 section, and shall not form a part of net energy metering contracts  
12 or tariffs.

13 (h) For eligible residential and small commercial  
14 customer-generators, the net energy metering calculation shall be  
15 made by measuring the difference between the electricity supplied  
16 to the eligible customer-generator and the electricity generated by  
17 the eligible customer-generator and fed back to the electric grid  
18 over a 12-month period. The following rules shall apply to the  
19 annualized net metering calculation:

20 (1) The eligible residential or small commercial  
21 customer-generator shall, at the end of each 12-month period  
22 following the date of final interconnection of the eligible  
23 customer-generator's system with an electricity distribution utility  
24 or cooperative, and at each anniversary date thereafter, be billed  
25 for electricity used during that 12-month period. The electricity  
26 distribution utility or cooperative shall determine if the eligible  
27 residential or small commercial customer-generator was a net  
28 consumer or a net producer of electricity during that period.

29 (2) At the end of each 12-month period, where the electricity  
30 supplied during the period by the electricity distribution utility or  
31 cooperative exceeds the electricity generated by the eligible  
32 residential or small commercial customer-generator during that  
33 same period, the eligible residential or small commercial  
34 customer-generator is a net electricity consumer and the electricity  
35 distribution utility or cooperative shall be owed compensation for  
36 the eligible customer-generator's net kilowatthour consumption  
37 over that 12-month period. The compensation owed for the eligible  
38 residential or small commercial customer-generator's consumption  
39 shall be calculated as follows:

1 (A) For all eligible customer-generators taking service under  
2 contracts or tariffs employing “baseline” and “over baseline” rates  
3 or charges, any net monthly consumption of electricity shall be  
4 calculated according to the terms of the contract or tariff to which  
5 the same customer would be assigned to, or be eligible for, if the  
6 customer was not an eligible customer-generator. If those same  
7 customer-generators are net generators over a billing period, the  
8 net kilowatthours generated shall be valued at the same price per  
9 kilowatthour as the electricity distribution utility or cooperative  
10 would charge for the baseline quantity of electricity during that  
11 billing period, and if the number of kilowatthours generated  
12 exceeds the baseline quantity, the excess shall be valued at the  
13 same price per kilowatthour as the electricity distribution utility  
14 or cooperative would charge for electricity over the baseline  
15 quantity during that billing period.

16 (B) For all eligible customer-generators taking service under  
17 contracts or tariffs employing ~~“time-of-use”~~ “*time-of-use*” rates  
18 or charges, any net monthly consumption of electricity shall be  
19 calculated according to the terms of the contract or tariff to which  
20 the same customer would be assigned to, or be eligible for, if the  
21 customer was not an eligible customer-generator. When those same  
22 customer-generators are net generators during any discrete time  
23 of use period, the net kilowatthours produced shall be valued at  
24 the same price per kilowatthour as the electricity distribution utility  
25 or cooperative would charge for retail kilowatthour sales during  
26 that same ~~time-of-use~~ *time-of-use* period. If the eligible  
27 customer-generator’s ~~time-of-use~~ *time-of-use* electrical meter is  
28 unable to measure the flow of electricity in two directions,  
29 subparagraph (A) of paragraph (1) of subdivision (c) shall apply.

30 (C) For all eligible residential and small commercial  
31 customer-generators and for each billing period, the net balance  
32 of moneys owed to the electricity distribution utility or cooperative  
33 for net consumption of electricity or credits owed to the eligible  
34 customer-generator for net generation of electricity shall be carried  
35 forward as a monetary value until the end of each 12-month period.  
36 For all eligible commercial, industrial, and agricultural  
37 customer-generators, the net balance of moneys owed shall be paid  
38 in accordance with the electricity distribution utility or  
39 cooperative’s normal billing cycle, except that if the eligible  
40 commercial, industrial, or agricultural customer-generator is a net

1 electricity producer over a normal billing cycle, any excess  
2 kilowatthours generated during the billing cycle shall be carried  
3 over to the following billing period as a monetary value, calculated  
4 according to the procedures set forth in this section, and appear as  
5 a credit on the eligible customer-generator's account, until the end  
6 of the annual period when paragraph (3) shall apply.

7 (3) At the end of each 12-month period, where the electricity  
8 generated by the eligible customer-generator during the 12-month  
9 period exceeds the electricity supplied by the electricity distribution  
10 utility or cooperative during that same period, the eligible  
11 customer-generator is a net electricity producer and the electricity  
12 distribution utility or cooperative shall retain any excess  
13 kilowatthours generated during the prior 12-month period. The  
14 eligible customer-generator shall not be owed any compensation  
15 for those excess kilowatthours unless the electricity distribution  
16 utility or cooperative enters into a purchase agreement with the  
17 eligible customer-generator for those excess kilowatthours.

18 (4) The electricity distribution utility or cooperative shall provide  
19 every eligible residential or small commercial customer-generator  
20 with net electricity consumption information with each regular  
21 bill. That information shall include the current monetary balance  
22 owed the electricity distribution utility or cooperative for net  
23 electricity consumed, or the current amount of excess electricity  
24 produced, since the last 12-month period ended. Notwithstanding  
25 this subdivision, an electricity distribution utility or cooperative  
26 shall permit that customer to pay monthly for net energy consumed.

27 (5) If an eligible residential or small commercial  
28 customer-generator terminates the customer relationship with the  
29 electricity distribution utility or cooperative, the electricity  
30 distribution utility or cooperative shall reconcile the eligible  
31 customer-generator's consumption and production of electricity  
32 during any part of a 12-month period following the last  
33 reconciliation, according to the requirements set forth in this  
34 subdivision, except that those requirements shall apply only to the  
35 months since the most recent 12-month bill.

36 (6) If an electric service provider or electricity distribution utility  
37 or cooperative providing net energy metering to a residential or  
38 small commercial customer-generator ceases providing that electric  
39 service to that customer during any 12-month period, and the  
40 customer-generator enters into a new net energy metering contract

1 or tariff with a new electric service provider or electricity  
2 distribution utility or cooperative, the 12-month period, with respect  
3 to that new electric service provider or electricity distribution utility  
4 or cooperative, shall commence on the date on which the new  
5 electric service provider or electricity distribution utility or  
6 cooperative first supplies electric service to the customer-generator.

7 (i) Notwithstanding any other provisions of this section, the  
8 following provisions shall apply to an eligible customer-generator  
9 with a capacity of more than 10 kilowatts, but not exceeding one  
10 megawatt, that receives electric service from a local publicly owned  
11 electric utility that has elected to utilize a co-energy metering  
12 program unless the local publicly owned electric utility chooses  
13 to provide service for eligible customer-generators with a capacity  
14 of more than 10 kilowatts in accordance with subdivisions (g) and  
15 (h):

16 (1) The eligible customer-generator shall be required to utilize  
17 a meter, or multiple meters, capable of separately measuring  
18 electricity flow in both directions. All meters shall provide  
19 “time-of-use” measurements of electricity flow, and the customer  
20 shall take service on a time-of-use rate schedule. If the existing  
21 meter of the eligible customer-generator is not a time-of-use meter  
22 or is not capable of measuring total flow of energy in both  
23 directions, the eligible customer-generator shall be responsible for  
24 all expenses involved in purchasing and installing a meter that is  
25 both time-of-use and able to measure total electricity flow in both  
26 directions. This subdivision shall not restrict the ability of an  
27 eligible customer-generator to utilize any economic incentives  
28 provided by a government agency or an electricity distribution  
29 utility or cooperative to reduce its costs for purchasing and  
30 installing a time-of-use meter.

31 (2) The consumption of electricity from the local publicly owned  
32 electric utility shall result in a cost to the eligible  
33 customer-generator to be priced in accordance with the standard  
34 rate charged to the eligible customer-generator in accordance with  
35 the rate structure to which the customer would be assigned if the  
36 customer did not use an eligible solar or wind electrical generating  
37 facility. The generation of electricity provided to the local publicly  
38 owned electric utility shall result in a credit to the eligible  
39 customer-generator and shall be priced in accordance with the  
40 generation component, established under the applicable structure

1 to which the customer would be assigned if the customer did not  
2 use an eligible solar or wind electrical generating facility.

3 (3) All costs and credits shall be shown on the eligible  
4 customer-generator's bill for each billing period. In any months  
5 in which the eligible customer-generator has been a net consumer  
6 of electricity calculated on the basis of value determined pursuant  
7 to paragraph (2), the customer-generator shall owe to the local  
8 publicly owned electric utility the balance of electricity costs and  
9 credits during that billing period. In any billing period in which  
10 the eligible customer-generator has been a net producer of  
11 electricity calculated on the basis of value determined pursuant to  
12 paragraph (2), the local publicly owned electric utility shall owe  
13 to the eligible customer-generator the balance of electricity costs  
14 and credits during that billing period. Any net credit to the eligible  
15 customer-generator of electricity costs may be carried forward to  
16 subsequent billing periods, provided that a local publicly owned  
17 electric utility may choose to carry the credit over as a kilowatthour  
18 credit consistent with the provisions of any applicable contract or  
19 tariff, including any differences attributable to the time of  
20 generation of the electricity. At the end of each 12-month period,  
21 the local publicly owned electric utility may reduce any net credit  
22 due to the eligible customer-generator to zero.

23 (j) A solar or wind turbine electrical generating system, or a  
24 hybrid system of both, used by an eligible customer-generator shall  
25 meet all applicable safety and performance standards established  
26 by the National Electrical Code, the Institute of Electrical and  
27 Electronics Engineers, and accredited testing laboratories, including  
28 Underwriters Laboratories and, where applicable, rules of the  
29 commission regarding safety and reliability. A customer-generator  
30 whose solar or wind turbine electrical generating system, or a  
31 hybrid system of both, meets those standards and rules shall not  
32 be required to install additional controls, perform or pay for  
33 additional tests, or purchase additional liability insurance.

34 (k) If the commission determines that there are cost or revenue  
35 obligations for an electric corporation, as defined in Section 218,  
36 that may not be recovered from customer-generators acting  
37 pursuant to this section, those obligations shall remain within the  
38 customer class from which any shortfall occurred and may not be  
39 shifted to any other customer class. Net energy metering and  
40 co-energy metering customers shall not be exempt from the public

1 goods charges imposed pursuant to Article 7 (commencing with  
2 Section 381), Article 8 (commencing with Section 385), or Article  
3 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its  
4 report to the Legislature, the commission shall examine different  
5 methods to ensure that the public goods charges remain  
6 nonbypassable.

7 (l) A net energy metering, co-energy metering, or wind energy  
8 co-metering customer shall reimburse the Department of Water  
9 Resources for all charges that would otherwise be imposed on the  
10 customer by the commission to recover bond-related costs pursuant  
11 to an agreement between the commission and the Department of  
12 Water Resources pursuant to Section 80110 of the Water Code,  
13 as well as the costs of the department equal to the share of the  
14 department's estimated net unavoidable power purchase contract  
15 costs attributable to the customer. The commission shall  
16 incorporate the determination into an existing proceeding before  
17 the commission, and shall ensure that the charges are  
18 nonbypassable. Until the commission has made a determination  
19 regarding the nonbypassable charges, net energy metering,  
20 co-energy metering, and wind energy co-metering shall continue  
21 under the same rules, procedures, terms, and conditions as were  
22 applicable on December 31, 2002.

23 (m) In implementing the requirements of subdivisions (k) and  
24 (l), a customer-generator shall not be required to replace its existing  
25 meter except as set forth in subparagraph (A) of paragraph (1) of  
26 subdivision (c), nor shall the electricity distribution utility or  
27 cooperative require additional measurement of usage beyond that  
28 which is necessary for customers in the same rate class as the  
29 eligible customer-generator.

30 (n) It is the intent of the Legislature that the Treasurer  
31 incorporate net energy metering, co-energy metering, and wind  
32 energy co-metering projects undertaken pursuant to this section  
33 as sustainable building methods or distributive energy technologies  
34 for purposes of evaluating low-income housing projects.

35 ~~SEC. 25.~~

36 *SEC. 27.* Section 2852 of the Public Utilities Code is amended  
37 to read:

38 2852. (a) As used in this section, the following terms have the  
39 following meanings:

1 (1) “California Solar Initiative” means the program providing  
2 ratepayer funded incentives for eligible solar energy systems  
3 adopted by the Public Utilities Commission in Decision 05-12-044  
4 and Decision 06-01-024.

5 (2) “Low-income residential housing” means either of the  
6 following:

7 (A) Residential housing financed with low-income housing tax  
8 credits, tax-exempt mortgage revenue bonds, general obligation  
9 bonds, or local, state, or federal loans or grants, and for which the  
10 rents of the occupants who are lower income households, as defined  
11 in Section 50079.5 of the Health and Safety Code, do not exceed  
12 those prescribed by deed restrictions or regulatory agreements  
13 pursuant to the terms of the financing or financial assistance.

14 (B) A residential complex in which at least 20 percent of the  
15 total units are sold or rented to lower income households, as defined  
16 in Section 50079.5 of the Health and Safety Code, and the housing  
17 units targeted for lower income households are subject to a deed  
18 restriction or affordability covenant with a public entity that ensures  
19 that the units will be available at an affordable housing cost, as  
20 defined in Section 50052.5 of the Health and Safety Code, or at  
21 an affordable rent, as defined in Section 50053 of the Health and  
22 Safety Code for a period of at least 30 years.

23 (3) “Solar energy system” means a solar energy device that has  
24 the primary purpose of providing for the collection and distribution  
25 of solar energy for the generation of electricity, that produces at  
26 least one kilowatt, and produces not more than five megawatts,  
27 alternating current rated peak electricity, and that meets or exceeds  
28 the eligibility criteria established by the commission or the State  
29 Energy Resources Conservation and Development Commission.

30 (b) In establishing the California Solar Initiative, no moneys  
31 shall be diverted from any existing programs for low-income  
32 ratepayers, or from cost-effective energy efficiency or demand  
33 response programs.

34 (c) (1) The commission shall ensure that not less than 10 percent  
35 of the funds for the California Solar Initiative are utilized for the  
36 installation of solar energy systems on low-income residential  
37 housing. Notwithstanding any other law, the commission may  
38 modify the monetary incentives made available pursuant to the  
39 California Solar Initiative to accommodate the limited financial  
40 resources of low-income residential housing.

1 (2) The commission may incorporate a revolving loan or loan  
2 guarantee program into the California Solar Initiative for  
3 low-income residential housing. All loans outstanding as of January  
4 1, 2016, shall continue to be repaid consistent with the terms and  
5 conditions of the program adopted and implemented by the  
6 commission pursuant to this subdivision, until repaid in full.

7 (3) All moneys set aside for the purpose of funding the  
8 installation of solar energy systems on low-income residential  
9 housing that are unexpended and unencumbered on January 1,  
10 2016, and all moneys thereafter repaid pursuant to paragraph (2),  
11 except to the extent those moneys are encumbered pursuant to this  
12 section, shall be utilized to augment existing cost-effective energy  
13 efficiency measures in low-income residential housing that benefit  
14 ratepayers.

15 ~~SEC. 26.~~

16 *SEC. 28.* Section 3302 of the Public Utilities Code is amended  
17 to read:

18 3302. As used in this division, unless the context otherwise  
19 requires, the following terms have the following meanings:

20 (a) “Act” means the California Consumer Power and  
21 Conservation Financing Authority Act.

22 (b) “Authority” means the California Consumer Power and  
23 Conservation Financing Authority established pursuant to Section  
24 3320 and any board, commission, department, or officer succeeding  
25 to the functions thereof, or to whom the powers conferred upon  
26 the authority by this division shall be given by law.

27 (c) “Board” means the Board of Directors of the California  
28 Consumer Power and Conservation Financing Authority.

29 (d) “Bond purchase agreement” means a contractual agreement  
30 executed between the authority and an underwriter or underwriters  
31 and, where appropriate, a participating party, whereby the authority  
32 agrees to sell bonds issued pursuant to this division.

33 (e) “Bonds” means bonds, including structured, senior, and  
34 subordinated bonds or other securities; loans; notes, including  
35 bond revenue or grant anticipation notes; certificates of  
36 indebtedness; commercial paper; floating rate and variable maturity  
37 securities; and any other evidences of indebtedness or ownership,  
38 including certificates of participation or beneficial interest,  
39 asset-backed certificates, or lease-purchase or installment purchase

1 agreements, whether taxable or excludable from gross income for  
2 state and federal income taxation purposes.

3 (f) “Cost,” as applied to a program, project, or portion thereof  
4 financed under this division, means all or any part of the cost of  
5 construction, improvement, repair, reconstruction, renovation, and  
6 acquisition of all lands, structures, improved or unimproved real  
7 or personal property, rights, rights-of-way, franchises, licenses,  
8 easements, and interests acquired or used for a project; the cost of  
9 demolishing or removing or relocating any buildings or structures  
10 on land so acquired, including the cost of acquiring any lands to  
11 which the buildings or structures may be moved; the cost of all  
12 machinery and equipment; financing charges; the costs of any  
13 environmental mitigation; the costs of issuance of bonds or other  
14 indebtedness; interest prior to, during, and for a period after,  
15 completion of the project, as determined by the authority;  
16 provisions for working capital; reserves for principal and interest;  
17 reserves for reduction of costs for loans or other financial  
18 assistance; reserves for maintenance, extension, enlargements,  
19 additions, replacements, renovations, and improvements; and the  
20 cost of architectural, engineering, financial, appraisal, and legal  
21 services, plans, specifications, estimates, administrative expenses,  
22 and other expenses necessary or incidental to determining the  
23 feasibility of any project, enterprise, or program or incidental to  
24 the completion or financing of any project or program.

25 (g) “Enterprise” means a revenue-producing improvement,  
26 building, system, plant, works, facilities, or undertaking used for  
27 or useful for the generation or production of electric energy for  
28 lighting, heating, and power for public or private uses. Enterprise  
29 includes, but is not limited to, all parts of the enterprise, all  
30 appurtenances to it, lands, easements, rights in land, water rights,  
31 contract rights, franchises, buildings, structures, improvements,  
32 equipment, and facilities appurtenant or relating to the enterprise.

33 (h) “Financial assistance” in connection with a project, enterprise  
34 or program, includes, but is not limited to, any combination of  
35 grants, loans, the proceeds of bonds issued by the authority,  
36 insurance, guarantees or other credit enhancements or liquidity  
37 facilities, and contributions of money, property, labor, or other  
38 things of value, as may be approved by resolution of the board;  
39 the purchase or retention of authority bonds, the bonds of a  
40 participating party for their retention or for sale by the authority,

1 or the issuance of authority bonds or the bonds of a special purpose  
2 trust used to fund the cost of a project or program for which a  
3 participating party is directly or indirectly liable, including, but  
4 not limited to, bonds, the security for which is provided in whole  
5 or in part pursuant to the powers granted by this division; bonds  
6 for which the authority has provided a guarantee or enhancement;  
7 or any other type of assistance determined to be appropriate by  
8 the authority.

9 (i) “Fund” means the California Consumer Power and  
10 Conservation Financing Authority Fund.

11 (j) “Loan agreement” means a contractual agreement executed  
12 between the authority and a participating party that provides that  
13 the authority will loan funds to the participating party and that the  
14 participating party will repay the principal and pay the interest and  
15 redemption premium, if any, on the loan.

16 (k) “Participating party” means either of the following:

17 (1) Any person, company, corporation, partnership, firm,  
18 federally recognized California Indian tribe, or other entity or  
19 group of entities, whether organized for profit or not for profit,  
20 engaged in business or operations within the state and that applies  
21 for financial assistance from the authority for the purpose of  
22 implementing a project or program in a manner prescribed by the  
23 authority.

24 (2) Any subdivision of the state or local government, including,  
25 but not limited to, departments, agencies, commissions, cities,  
26 counties, nonprofit corporations, special districts, assessment  
27 districts, and joint powers authorities within the state or any  
28 combination of these subdivisions, that has, or proposes to acquire,  
29 an interest in a project, or that operates or proposes to operate a  
30 program under Section 3365, and that makes application to the  
31 authority for financial assistance in a manner prescribed by the  
32 authority.

33 (l) “Program” means a program that provides financial  
34 assistance, as provided in Article 6 (commencing with Section  
35 3365).

36 (m) “Project” means plants, facilities, equipment, appliances,  
37 structures, expansions, and improvements within the state that  
38 serve the purposes of this division as approved by the authority,  
39 and all activities and expenses necessary to initiate and complete  
40 those projects described in Article 5 (commencing with Section

1 3350) and Article 7 (commencing with Section 3368), of Chapter  
 2 3.

3 (n) “Revenues” means all receipts, purchase payments, loan  
 4 repayments, lease payments, rents, fees and charges, and all other  
 5 income or receipts derived by the authority from an enterprise, or  
 6 by the authority or a participating party from any other financing  
 7 arrangement undertaken by the authority or a participating party,  
 8 including, but not limited to, all receipts from a bond purchase  
 9 agreement, and any income or revenue derived from the investment  
 10 of any money in any fund or account of the authority or a  
 11 participating party.

12 (o) “State” means the State of California.

13 ~~SEC. 27.~~

14 *SEC. 29.* Section 7000 of the Public Utilities Code is amended  
 15 to read:

16 7000. (a) For purposes of this chapter, a utility shall mean all  
 17 of the following:

- 18 (1) An electric corporation.
- 19 (2) A water corporation.
- 20 (3) A telephone corporation.
- 21 (4) A telecommunications carrier, as defined in Section 153 of  
 22 Title 47 of the United States Code.
- 23 (5) A gas corporation.
- 24 (6) A local publicly owned electric utility and a publicly owned  
 25 gas utility.
- 26 (7) A special district that owns or operates utilities.

27 (b) This chapter shall also apply to the following entities:

- 28 (1) A cable television corporation.
- 29 (2) A cable operator, as defined in Section 522 of Title 47 of  
 30 the United States Code.

31 ~~SEC. 28.~~

32 *SEC. 30.* Section 8340 of the Public Utilities Code is amended  
 33 to read:

34 8340. For purposes of this chapter, the following terms have  
 35 the following meanings:

- 36 (a) “Baseload generation” means electricity generation from a  
 37 powerplant that is designed and intended to provide electricity at  
 38 an annualized plant capacity factor of at least 60 percent.
- 39 (b) “Combined-cycle natural gas” with respect to a powerplant  
 40 means the powerplant employs a combination of one or more gas

1 turbines and steam turbines in which electricity is produced in the  
2 steam turbine from otherwise lost waste heat exiting from one or  
3 more of the gas turbines.

4 (c) “Electric service provider” means an “electric service  
5 provider” as defined in Section 218.3, but does not include  
6 corporations or persons employing cogeneration technology or  
7 producing electricity from other than a conventional power source  
8 consistent with subdivision (b) of Section 218.

9 (d) “Greenhouse gases” means those gases listed in subdivision  
10 (h) of Section 42801.1 of the Health and Safety Code.

11 (e) “Load-serving entity” means every electrical corporation,  
12 electric service provider, or community choice aggregator serving  
13 end-use customers in the state.

14 (f) “Long-term financial commitment” means either a new  
15 ownership investment in baseload generation or a new or renewed  
16 contract with a term of five or more years, which includes  
17 procurement of baseload generation.

18 (g) “Output-based methodology” means a greenhouse gases  
19 emission performance standard that is expressed in pounds of  
20 greenhouse gases emitted per megawatthour and factoring in the  
21 useful thermal energy employed for purposes other than the  
22 generation of electricity.

23 (h) “Plant capacity factor” means the ratio of the electricity  
24 produced during a given time period, measured in kilowatthours,  
25 to the electricity the unit could have produced if it had been  
26 operated at its rated capacity during that period, expressed in  
27 kilowatthours.

28 (i) “Powerplant” means a facility for the generation of electricity,  
29 and includes one or more generating units at the same location.

30 (j) “Zero- or low-carbon generating resource” means an  
31 electrical generating resource that will generate electricity while  
32 producing emissions of greenhouse gases at a rate substantially  
33 below the greenhouse gases emission performance standard, as  
34 determined by the commission.

35 ~~SEC. 29.~~

36 *SEC. 31.* Section 9604 of the Public Utilities Code is amended  
37 to read:

38 9604. For purposes of this division, the following definitions  
39 apply:

1 (a) “Direct transaction” means a contract between one or more  
2 electric generators, marketers, or brokers, public or private, of  
3 electric power and one or more retail customers providing for the  
4 purchase and sale of electric power and ancillary services.

5 (b) “Service area” means an area in which, as of December 20,  
6 1995, an investor-owned electric utility or a local publicly owned  
7 electric utility was obligated to provide service.

8 (c) “Severance fee” or “transition charge” for a local publicly  
9 owned electric utility shall mean that charge or periodic charge  
10 assessed to customers to recover the reasonable uneconomic portion  
11 of costs associated with generation-related assets and obligations,  
12 nuclear decommissioning, and capitalized energy efficiency  
13 investment programs approved prior to August 15, 1996.