

AMENDED IN ASSEMBLY MAY 29, 2008
AMENDED IN ASSEMBLY SEPTEMBER 7, 2007
AMENDED IN ASSEMBLY AUGUST 31, 2007
AMENDED IN ASSEMBLY JUNE 20, 2007
AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 312

Introduced by Senator Kehoe

February 16, 2007

An act to amend Section 3099.2 of the Labor Code, to amend Sections 25302.5 and 25534 of the Public Resources Code, to amend Sections 5, 20, 216, 311.5, 353.11, 366.2, 380, 387, 387.5, 394.5, 395.5, 399.12, 701.8, 761.3, 776, 848, 2774.5, 2827, 2852, 2872.5, 2892.1, 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 of Chapter 2.3 of, and to repeal the heading of Article 5 of Chapter 2.5 of, Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities: *311.5 of the Public Utilities Code, relating to the Public Utilities Commission.*

LEGISLATIVE COUNSEL'S DIGEST

SB 312, as amended, Kehoe. ~~Public utilities.~~ *Utilities Commission.*
Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory restrictions and constitutional requirements of due process. Existing law requires the Public Utilities Commission to provide on its Internet Web site the means by which consumers may submit informal complaints through electronic means if the dollar

amount does not exceed the jurisdictional limit of a small claims court. Existing law requires the commission to determine the feasibility of submitting advice letters to the commission through electronic means, and if determined to be feasible, to propose a plan for submitting advice letters by electronic means within 6 months of the date of that determination. Existing law requires the commission to publish and maintain certain documents and information, including making available on the commission's Internet Web site, the commission's annual work plan, general orders, and Rules of Practice and Procedure, the proposed and alternate proposed decisions and resolutions, the agenda, agenda item documents, rulings of the commission, and adopted decisions and resolutions of the commission.

This bill would require the commission to make all documents, testimony, or other materials filed with the commission in any ratesetting or quasi-legislative proceedings accessible on its Internet Web site. The bill would require the commission to implement these requirements by December 31, 2009.

~~(1) Existing law requires, with certain exceptions, that individuals who perform work as electricians become certified and prohibits uncertified individuals from performing electrical work for which certification is required. An uncertified person may perform electrical work for which certification is required to obtain on-the-job experience as a registered apprentice, if the uncertified person meets certain requirements.~~

~~This bill would provide that certification is not required for work performed by a lineman on a utility electrical transmission or distribution system when the lineman is employed by the utility or a licensed contractor principally engaged in installing or maintaining the utility's transmission or distribution system.~~

~~(2) 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.~~

~~(3) 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.~~

~~(4) 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.~~

~~(5) Existing law requires the commission to provide on its Internet Web site the means by which consumers may submit informal complaints through electronic means if the dollar amount does not exceed the jurisdictional limit of a small claims court. Existing law requires the commission to determine the feasibility of submitting advice letters to the commission through electronic means, and if determined to be feasible, to propose a plan for submitting advice letters by electronic means within 6 months of the date of that determination. Existing law requires the commission to publish and maintain certain documents and information, including making available on the commission’s Internet Web site, the commission’s annual work plan, general orders, and Rules of Practice and Procedure, the proposed and alternate proposed decisions and resolutions, the agenda, agenda item documents, rulings of the commission, and adopted decisions and resolutions of the commission.~~

~~This bill would require the commission to make all documents, testimony, or other materials filed with the commission in any ratesetting or quasi-legislative proceedings accessible on its Internet Web site. The bill would require the commission to implement these requirements by December 31, 2009.~~

~~(6) 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.~~

~~(7) This bill would extend by 3 months, the deadline for the submission of certain reports required to be prepared by the PUC, and would make other technical, nonsubstantive changes.~~

~~(8) This bill would incorporate additional changes to Section 399.12 of the Public Utilities Code, proposed by AB 809, to be operative only if AB 809 and this bill are enacted, each bill amends that section, this bill is enacted after AB 809.~~

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. The Legislature finds and declares all of the
2 following:

3 (a) It is in the public interest to encourage and facilitate public
4 participation in the decisionmaking process of the Public Utilities
5 Commission.

6 (b) It is in the public interest for decisionmaking by the Public
7 Utilities Commission to be as transparent as reasonably possible.

8 (c) California law has consistently striven to foster open access
9 as indicated by the California Public Records Act (Chapter 3.5
10 commencing with Section 6250) of Division 7 of Title 1 of the
11 Government Code), the Bagley-Keene Open Meeting Act (Article
12 9 (commencing with Section 11120) of Chapter 1 of Part 1 of
13 Division 3 of Title 2 of the Government Code), and provisions
14 providing for intervenor compensation (Article 5 (commencing
15 with Section 1801) of Chapter 9 of Part 1 of Division 1 of the
16 Public Utilities Code).

17 (d) The Public Utilities Commission should make its proceedings
18 accessible to the public over the Internet, including providing
19 public access to documents, filings, testimony, rulings, and
20 decisions.

21 ~~SECTION 1.5. Section 3099.2 of the Labor Code is amended~~
22 ~~to read:~~

23 ~~3099.2. (a) (1) Persons who perform work as electricians shall~~
24 ~~become certified pursuant to Section 3099 by the deadlines~~
25 ~~specified in this subdivision. After the applicable deadline,~~
26 ~~uncertified persons may not perform electrical work for which~~
27 ~~certification is required.~~

1 ~~(2) The deadline for certification as a general electrician or~~
2 ~~fire/life safety technician is January 1, 2006, except that persons~~
3 ~~who applied for certification prior to January 1, 2006, have until~~
4 ~~January 1, 2007, to pass the certification examination. The deadline~~
5 ~~for certification as a residential electrician is January 1, 2007, and~~
6 ~~the deadline for certification as a voice data video technician or a~~
7 ~~nonresidential lighting technician is January 1, 2008. The California~~
8 ~~Apprenticeship Council may extend the certification date for any~~
9 ~~of these three categories of electricians up to January 1, 2009, if~~
10 ~~the council concludes that the existing deadline will not provide~~
11 ~~persons sufficient time to obtain certification, enroll in an~~
12 ~~apprenticeship or training program, or register pursuant to Section~~
13 ~~3099.4.~~

14 ~~(3) For purposes of any continuing education or recertification~~
15 ~~requirement, individuals who become certified prior to the deadline~~
16 ~~for certification shall be treated as having become certified on the~~
17 ~~first anniversary of their certification date that falls after the~~
18 ~~certification deadline.~~

19 ~~(b) Certification is required only for those persons who perform~~
20 ~~work within the scope of Section 832.10 of Title 16 of the~~
21 ~~California Code of Regulations in effect as of January 1, 2007, for~~
22 ~~contractors licensed as class C-10 electrical contractors under the~~
23 ~~Contractors' State License Board Rules and Regulations.~~
24 ~~Certification is not required for work performed by a lineman on~~
25 ~~a utility electrical transmission or distribution system when the~~
26 ~~lineman is employed by the utility or a licensed contractor~~
27 ~~principally engaged in installing or maintaining the utility's~~
28 ~~transmission or distribution system or for persons performing work~~
29 ~~for contractors licensed as class C-7 low voltage systems or class~~
30 ~~C-45 electric sign contractors as long as the work performed is~~
31 ~~within the scope of the class C-7 or class-45 license, including~~
32 ~~incidental and supplemental work as defined in Section 7059 of~~
33 ~~the Business and Professions Code, and regardless of whether the~~
34 ~~same contractor is also licensed as a class C-10 contractor.~~

35 ~~(e) The division shall establish separate certifications for general~~
36 ~~electrician, fire/life safety technician, residential electrician, voice~~
37 ~~data video technician, and nonresidential lighting technician.~~

38 ~~(d) Notwithstanding subdivision (a), certification is not required~~
39 ~~for registered apprentices performing electrical work as part of an~~
40 ~~apprenticeship program approved under this chapter, a federal~~

1 Bureau of Apprenticeship Training program, or a state
2 apprenticeship program authorized by the federal Bureau of
3 Apprenticeship Training. An apprentice who is within one year of
4 completion of his or her term of apprenticeship shall be permitted
5 to take the certification examination and, upon passing the
6 examination, shall be certified immediately upon completion of
7 the term of apprenticeship.

8 (e) Notwithstanding subdivision (a), certification is not required
9 for any person employed pursuant to Section 3099.4.

10 (f) Notwithstanding subdivision (a), certification is not required
11 for a nonresidential lighting trainee (1) who is enrolled in an
12 on-the-job instructional training program approved by the Chief
13 of the Division of Apprenticeship Standards pursuant to Section
14 3090, and (2) who is under the onsite supervision of a
15 nonresidential lighting technician certified pursuant to Section
16 3099.

17 (g) Notwithstanding subdivision (a), the qualifying person for
18 a class C-10 electrical contractor license issued by the Contractors
19 State License Board need not also be certified pursuant to Section
20 3099 to perform electrical work for that licensed contractor or to
21 supervise an uncertified person employed by that licensed
22 contractor pursuant to Section 3099.4.

23 (h) For the purposes of this section, “electricians” has the same
24 meaning as the definition set forth in Section 3099.

25 SEC. 2. Section 25302.5 of the Public Resources Code is
26 amended to read:

27 25302.5. (a) As part of each integrated energy policy report
28 required pursuant to Section 25302, each entity that serves or plans
29 to serve electricity to retail customers, including, but not limited
30 to, electrical corporations, nonutility electric service providers,
31 community choice aggregators, and local publicly owned electric
32 utilities, shall provide the commission with its forecast of both of
33 the following:

34 (1) The amount of its forecasted load that may be lost or added
35 by any of the following:

36 (A) A community choice aggregator.

37 (B) An existing local publicly owned electric utility.

38 (C) A newly formed local publicly owned electric utility.

39 (2) Load that will be served by an electric service provider.

1 (b) ~~The commission shall perform an assessment in the service~~
2 ~~territory of each electrical corporation of the loss or addition of~~
3 ~~load described in this section and submit the results of the~~
4 ~~assessment to the Public Utilities Commission.~~

5 (c) ~~Notwithstanding subdivision (a), the commission may~~
6 ~~exempt from the forecasting requirements in that subdivision, a~~
7 ~~local publicly owned electric utility that is not planning to acquire~~
8 ~~additional load beyond its existing exclusive service territory within~~
9 ~~the forecast period provided by the commission pursuant to Section~~
10 ~~25303.~~

11 (d) ~~For purposes of this section, the following terms have the~~
12 ~~following meanings:~~

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

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

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

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

23 ~~SEC. 3. Section 25534 of the Public Resources Code is~~
24 ~~amended to read:~~

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

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

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

34 (3) ~~A violation of this division or any regulation or order issued~~
35 ~~by the commission under this division.~~

36 (4) ~~The owner of a project does not start construction of the~~
37 ~~project within 12 months after the date all permits necessary for~~
38 ~~the project become final and all administrative and judicial appeals~~
39 ~~have been resolved provided the California Consumer Power and~~
40 ~~Conservation Financing Authority notifies the commission that it~~

1 is willing and able to construct the project pursuant to subdivision
2 (g). The project owner may extend the 12-month period by 24
3 additional months pursuant to subdivision (f). This paragraph
4 applies only to projects with a project permit application deemed
5 complete by the commission after January 1, 2003.

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

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

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

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

- 1 ~~(1) The change in any deadline or milestone does not change~~
2 ~~the established deadline or milestone for the start of commercial~~
3 ~~operation.~~
- 4 ~~(2) The deadline or milestone is changed due to circumstances~~
5 ~~beyond the project owner's control, including, but not limited to,~~
6 ~~administrative and legal appeals.~~
- 7 ~~(3) The deadline or milestone will be missed but the project~~
8 ~~owner demonstrates a good faith effort to meet the project deadline~~
9 ~~or milestone.~~
- 10 ~~(4) The deadline or milestone will be missed due to unforeseen~~
11 ~~natural disasters or acts of God that prevent timely completion of~~
12 ~~the project deadline or milestone.~~
- 13 ~~(5) The deadline or milestone will be missed for any other reason~~
14 ~~determined reasonable by the commission.~~
- 15 ~~(f) The commission shall extend the start-of-construction~~
16 ~~deadline required by paragraph (4) of subdivision (a) by an~~
17 ~~additional 24 months, if the owner reimburses the commission's~~
18 ~~actual cost of licensing the project, less the amount paid pursuant~~
19 ~~to subdivision (a) of Section 25806. For the purposes of this~~
20 ~~section, the commission's actual cost of licensing the project shall~~
21 ~~be based on a certified audit report filed by the commission staff~~
22 ~~within 180 days of the commission's certification of the project.~~
23 ~~The certified audit shall be filed and served on all parties to the~~
24 ~~proceeding, is subject to public review and comment, and is subject~~
25 ~~to at least one public hearing if requested by the project owner.~~
26 ~~Any reimbursement received by the commission pursuant to this~~
27 ~~subdivision shall be deposited in the General Fund.~~
- 28 ~~(g) If the owner of a project subject to the start-of-construction~~
29 ~~deadline provided by paragraph (4) of subdivision (a) fails to~~
30 ~~commence construction, without good cause, within 12 months~~
31 ~~after the project has been certified by the commission and has not~~
32 ~~received an extension pursuant to subdivision (f), the commission~~
33 ~~shall provide immediate notice to the California Consumer Power~~
34 ~~and Conservation Financing Authority. The authority shall evaluate~~
35 ~~whether to pursue the project independently or in conjunction with~~
36 ~~any other public or private entity, including the original certificate~~
37 ~~holder. If the authority demonstrates to the commission that it is~~
38 ~~willing and able to construct the project either independently or~~
39 ~~in conjunction with any other public or private entity, including~~
40 ~~the original certificate holder, the commission may revoke the~~

1 original certification and issue a new certification for the project
2 to the authority, unless the authority's statutory authorization to
3 finance or approve new programs, enterprises, or projects has
4 expired. If the authority declines to pursue the project, the permit
5 shall remain with the current project owner until it expires pursuant
6 to the regulations adopted by the commission.

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

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

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

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

1 certificate holder up to 12 months to start construction of the
2 project or to start to meet the applicable deadlines or milestones.

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

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

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

36 ~~SEC. 4. Section 5 of the Public Utilities Code is amended to
37 read:~~

38 ~~5. Unless the provision or the context otherwise requires, the
39 definitions, rules of construction, and other general provisions
40 contained in Sections 1 to 22, inclusive, and the definitions in the~~

1 Public Utilities Act (Chapter 1 (commencing with Section 201) of
2 Part 1 of Division 1), shall govern the construction of this code.

3 ~~SEC. 5. Section 20 of the Public Utilities Code is amended to~~
4 ~~read:~~

5 ~~20. (a) “Commission” means the Public Utilities Commission~~
6 ~~created by Section 1 of Article XII of the California Constitution,~~
7 ~~and “commissioner” means a member of the commission.~~

8 ~~(b) “Energy Commission” means the State Energy Resources~~
9 ~~Conservation and Development Commission.~~

10 ~~SEC. 6. Section 216 of the Public Utilities Code is amended~~
11 ~~to read:~~

12 ~~216. (a) “Public utility” includes every common carrier, toll~~
13 ~~bridge corporation, pipeline corporation, gas corporation, electrical~~
14 ~~corporation, telephone corporation, telegraph corporation, water~~
15 ~~corporation, sewer system corporation, and heat corporation, where~~
16 ~~the service is performed for, or the commodity is delivered to, the~~
17 ~~public or any portion thereof.~~

18 ~~(b) Whenever any common carrier, toll bridge corporation,~~
19 ~~pipeline corporation, gas corporation, electrical corporation,~~
20 ~~telephone corporation, telegraph corporation, water corporation,~~
21 ~~sewer system corporation, or heat corporation performs a service~~
22 ~~for, or delivers a commodity to, the public or any portion thereof~~
23 ~~for which any compensation or payment whatsoever is received,~~
24 ~~that common carrier, toll bridge corporation, pipeline corporation,~~
25 ~~gas corporation, electrical corporation, telephone corporation,~~
26 ~~telegraph corporation, water corporation, sewer system corporation,~~
27 ~~or heat corporation, is a public utility subject to the jurisdiction,~~
28 ~~control, and regulation of the commission and the provisions of~~
29 ~~this part.~~

30 ~~(c) When any person or corporation performs any service for,~~
31 ~~or delivers any commodity to, any person, private corporation,~~
32 ~~municipality, or other political subdivision of the state, that in turn~~
33 ~~either directly or indirectly, mediately or immediately, performs~~
34 ~~that service for, or delivers that commodity to, the public or any~~
35 ~~portion thereof, that person or corporation is a public utility subject~~
36 ~~to the jurisdiction, control, and regulation of the commission and~~
37 ~~the provisions of this part.~~

38 ~~(d) Ownership or operation of a facility that employs~~
39 ~~cogeneration technology or produces power from other than a~~
40 ~~conventional power source or the ownership or operation of a~~

1 facility which employs landfill gas technology does not make a
2 corporation or person a public utility within the meaning of this
3 section solely because of the ownership or operation of that facility.

4 (e) Any corporation or person engaged directly or indirectly in
5 developing, producing, transmitting, distributing, delivering, or
6 selling any form of heat derived from geothermal or solar resources
7 or from cogeneration technology to any privately owned or publicly
8 owned public utility, or to the public or any portion thereof, is not
9 a public utility within the meaning of this section solely by reason
10 of engaging in any of those activities.

11 (f) The ownership or operation of a facility that sells compressed
12 natural gas at retail to the public for use only as a motor vehicle
13 fuel, and the selling of compressed natural gas at retail from that
14 facility to the public for use only as a motor vehicle fuel, does not
15 make the corporation or person a public utility within the meaning
16 of this section solely because of that ownership, operation, or sale.

17 (g) Ownership or operation of a facility that is an exempt
18 wholesale generator as defined in the Public Utility Holding
19 Company Act of 2005 (42 U.S.C. Sec. 16541(6)) does not make
20 a corporation or person a public utility within the meaning of this
21 section, solely due to the ownership or operation of that facility.

22 (h) The ownership, control, operation, or management of an
23 electric plant used for direct transactions or participation directly
24 or indirectly in direct transactions, as permitted by subdivision (b)
25 of Section 365, sales into a market established and operated by the
26 Independent System Operator or any other wholesale electricity
27 market, or the use or sale as permitted under subdivisions (b) to
28 (d), inclusive, of Section 218, shall not make a corporation or
29 person a public utility within the meaning of this section solely
30 because of that ownership, participation, or sale.

31 SEC. 7. Section 224.3 is added to the Public Utilities Code, to
32 read:

33 224.3. “Local publicly owned electric utility” means a
34 municipality or municipal corporation operating as a “public
35 utility” furnishing electric service as provided in Section 10001,
36 a municipal utility district furnishing electric service formed
37 pursuant to Division 6 (commencing with Section 11501), a public
38 utility district furnishing electric services formed pursuant to the
39 Public Utility District Act set forth in Division 7 (commencing
40 with Section 15501), an irrigation district furnishing electric

1 ~~services formed pursuant to the Irrigation District Law set forth~~
2 ~~in Division 11 (commencing with Section 20500) of the Water~~
3 ~~Code, or a joint powers authority that includes one or more of these~~
4 ~~agencies and that owns generation or transmission facilities, or~~
5 ~~furnishes electric services over its own or its member's electric~~
6 ~~distribution system.~~

7 ~~SEC. 8.~~ Section 228.5 of the Public Utilities Code is amended
8 and renumbered to read:

9 218.5. (a) The following terms have the following meanings:

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

13 (2) ~~“Qualifying small power producer,” “small power production~~
14 ~~facility,” and “qualifying small power production facility” have~~
15 ~~the same meaning as found in Section 796 of Title 16 of the United~~
16 ~~States Code and regulations enacted pursuant thereto.~~

17 (b) ~~Notwithstanding any other provision of law, a qualifying~~
18 ~~small power producer owning or operating a small power~~
19 ~~production facility is not a public utility subject to the general~~
20 ~~jurisdiction of the commission solely because of the ownership or~~
21 ~~operation of the facility.~~

22 (c) ~~Notwithstanding any other provision of law, an exempt~~
23 ~~wholesale generator is not a public utility subject to the general~~
24 ~~jurisdiction of the commission solely due to the ownership or~~
25 ~~operation of the facility.~~

26 ~~SEC. 9.~~

27 ~~SEC. 2.~~ Section 311.5 of the Public Utilities Code is amended
28 to read:

29 311.5. (a) (1) Prior to commencement of any meeting at which
30 commissioners vote on items on the public agenda, the commission
31 shall make available to the public copies of the agenda, and upon
32 request, any agenda item documents that are proposed to be
33 considered by the commission for action or decision at a
34 commission meeting.

35 (2) In addition, the commission shall publish the agenda, agenda
36 item documents, and adopted decisions in a manner that makes
37 copies of them easily available to the public, including publishing
38 those documents on the Internet. Publication of the agenda and
39 agenda item documents shall occur on the Internet at the same

1 time as the written agenda and agenda item documents are made
2 available to the public.

3 (b) The commission shall publish and maintain the following
4 documents on the Internet:

5 (1) Each of the commission’s proposed and alternate proposed
6 decisions and resolutions, until the decision or resolution is adopted
7 and published.

8 (2) Each of the commission’s adopted decisions and resolutions.
9 The publication shall occur within 10 days of the adoption of each
10 decision or resolution by the commission.

11 (3) All documents, testimony, or other materials filed with the
12 commission in any ratesetting or quasi-legislative proceeding
13 subsequent to the implementation of this paragraph. The
14 commission shall implement the requirements of this paragraph
15 by December 31, 2009.

16 (4) The then-current version of the commission’s general orders
17 and Rules of Practice and Procedure.

18 (5) Each of the commission’s rulings. The commission shall
19 maintain those rulings on its Internet Web site until final
20 disposition, including disposition of any judicial appeals, of the
21 respective proceedings in which the rulings were issued.

22 (6) A docket card that lists, by title and date of filing or issuance,
23 all documents filed and all decisions or rulings issued in those
24 proceedings. The commission shall maintain the docket card until
25 final disposition, including disposition of any judicial appeals, of
26 the corresponding proceedings.

27 ~~SEC. 10. Section 353.11 of the Public Utilities Code is~~
28 ~~amended to read:~~

29 ~~353.11. A local publicly owned electric utility or a local~~
30 ~~publicly owned utility otherwise providing electrical service, shall~~
31 ~~review at the earliest practicable date its rates, tariffs, and rules to~~
32 ~~identify barriers to and determine the appropriate balance of costs~~
33 ~~and benefits of distributed energy resources in order to facilitate~~
34 ~~the installation of these resources in the interests of their~~
35 ~~customer-owners and the state, and shall hold at least one noticed~~
36 ~~public meeting to solicit public comment on the review and any~~
37 ~~recommended changes. However, notwithstanding any other~~
38 ~~provision of this article, such an entity has the sole authority to~~
39 ~~undertake such a review and to make modifications to its rates;~~

1 tariffs, and rules as the governing body of that utility determines
2 to be necessary.

3 SEC. 11. Section 366.2 of the Public Utilities Code is amended
4 to read:

5 366.2. (a) (1) Customers shall be entitled to aggregate their
6 electric loads as members of their local community with
7 community choice aggregators.

8 (2) Customers may aggregate their loads through a public
9 process with community choice aggregators, if each customer is
10 given an opportunity to opt out of their community's aggregation
11 program.

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

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

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

33 (2) Under community choice aggregation, customer participation
34 may not require a positive written declaration, but all customers
35 shall be informed of their right to opt out of the community choice
36 aggregation program. If no negative declaration is made by a
37 customer, that customer shall be served through the community
38 choice aggregation program.

39 (3) A community choice aggregator establishing electrical load
40 aggregation pursuant to this section shall develop an

1 ~~implementation plan detailing the process and consequences of~~
2 ~~aggregation. The implementation plan, and any subsequent changes~~
3 ~~to it, shall be considered and adopted at a duly noticed public~~
4 ~~hearing. The implementation plan shall contain all of the following:~~
5 ~~(A) An organizational structure of the program, its operations,~~
6 ~~and its funding.~~
7 ~~(B) Ratesetting and other costs to participants.~~
8 ~~(C) Provisions for disclosure and due process in setting rates~~
9 ~~and allocating costs among participants.~~
10 ~~(D) The methods for entering and terminating agreements with~~
11 ~~other entities.~~
12 ~~(E) The rights and responsibilities of program participants,~~
13 ~~including, but not limited to, consumer protection procedures,~~
14 ~~credit issues, and shutoff procedures.~~
15 ~~(F) Termination of the program.~~
16 ~~(G) A description of the third parties that will be supplying~~
17 ~~electricity under the program, including, but not limited to,~~
18 ~~information about financial, technical, and operational capabilities.~~
19 ~~(4) A community choice aggregator establishing electrical load~~
20 ~~aggregation shall prepare a statement of intent with the~~
21 ~~implementation plan. Any community choice load aggregation~~
22 ~~established pursuant to this section shall provide for the following:~~
23 ~~(A) Universal access.~~
24 ~~(B) Reliability.~~
25 ~~(C) Equitable treatment of all classes of customers.~~
26 ~~(D) Any requirements established by state law or by the~~
27 ~~commission concerning aggregated service.~~
28 ~~(5) In order to determine the cost-recovery mechanism to be~~
29 ~~imposed on the community choice aggregator pursuant to~~
30 ~~subdivisions (d), (e), and (f) that shall be paid by the customers of~~
31 ~~the community choice aggregator to prevent shifting of costs, the~~
32 ~~community choice aggregator shall file the implementation plan~~
33 ~~with the commission, and any other information requested by the~~
34 ~~commission that the commission determines is necessary to develop~~
35 ~~the cost-recovery mechanism in subdivisions (d), (e), and (f).~~
36 ~~(6) The commission shall notify any electrical corporation~~
37 ~~serving the customers proposed for aggregation that an~~
38 ~~implementation plan initiating community choice aggregation has~~
39 ~~been filed, within 10 days of the filing.~~

1 ~~(7) Within 90 days after the community choice aggregator~~
2 ~~establishing load aggregation files its implementation plan, the~~
3 ~~commission shall certify that it has received the implementation~~
4 ~~plan, including any additional information necessary to determine~~
5 ~~a cost-recovery mechanism. After certification of receipt of the~~
6 ~~implementation plan and any additional information requested,~~
7 ~~the commission shall then provide the community choice~~
8 ~~aggregator with its findings regarding any cost recovery that must~~
9 ~~be paid by customers of the community choice aggregator to~~
10 ~~prevent a shifting of costs as provided for in subdivisions (d), (e),~~
11 ~~and (f).~~

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

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

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

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

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

30 ~~(12) Nothing in this section shall be construed as authorizing~~
31 ~~any city or any community choice retail load aggregator to restrict~~
32 ~~the ability of retail electricity customers to obtain or receive service~~
33 ~~from any authorized electric service provider in a manner consistent~~
34 ~~with law.~~

35 ~~(13) (A) The community choice aggregator shall fully inform~~
36 ~~participating customers at least twice within two calendar months,~~
37 ~~or 60 days, in advance of the date of commencing automatic~~
38 ~~enrollment. Notifications may occur concurrently with billing~~
39 ~~cycles. Following enrollment, the aggregated entity shall fully~~
40 ~~inform participating customers for not less than two consecutive~~

1 billing cycles. Notification may include, but is not limited to, direct
2 mailings to customers, or inserts in water, sewer, or other utility
3 bills. Any notification shall inform customers of both of the
4 following:

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

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

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

23 (C) Each notification shall also include a mechanism by which
24 a ratepayer may opt out of community choice aggregated service.
25 The opt out may take the form of a self-addressed return postcard
26 indicating the customer's election to remain with, or return to,
27 electrical energy service provided by the electrical corporation, or
28 another straightforward means by which the customer may elect
29 to derive electrical energy service through the electrical corporation
30 providing service in the area.

31 (14) The community choice aggregator shall register with the
32 commission, which may require additional information to ensure
33 compliance with basic consumer protection rules and other
34 procedural matters.

35 (15) Once the community choice aggregator's contract is signed,
36 the community choice aggregator shall notify the applicable
37 electrical corporation that community choice service will
38 commence within 30 days.

39 (16) Once notified of a community choice aggregator program,
40 the electrical corporation shall transfer all applicable accounts to

1 the new supplier within a 30-day period from the date of the close
2 of their normally scheduled monthly metering and billing process.

3 ~~(17) An electrical corporation shall recover from the community~~
4 ~~choice aggregator any costs reasonably attributable to the~~
5 ~~community choice aggregator, as determined by the commission,~~
6 ~~of implementing this section, including, but not limited to, all~~
7 ~~business and information system changes, except for~~
8 ~~transaction-based costs as described in this paragraph. Any costs~~
9 ~~not reasonably attributable to a community choice aggregator shall~~
10 ~~be recovered from ratepayers, as determined by the commission.~~
11 ~~All reasonable transaction-based costs of notices, billing, metering,~~
12 ~~collections, and customer communications or other services~~
13 ~~provided to an aggregator or its customers shall be recovered from~~
14 ~~the aggregator or its customers on terms and at rates to be approved~~
15 ~~by the commission.~~

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

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

39 ~~(2) The Legislature finds and declares that this subdivision is~~
40 ~~consistent with the requirements of Division 27 (commencing with~~

1 ~~Section 80000) of the Water Code and Section 360.5, and is~~
2 ~~therefore declaratory of existing law.~~

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

6 ~~(1) A charge equivalent to the charges that would otherwise be~~
7 ~~imposed on the customer by the commission to recover bond~~
8 ~~related costs pursuant to any agreement between the commission~~
9 ~~and the Department of Water Resources pursuant to Section 80110~~
10 ~~of the Water Code, which charge shall be payable until any~~
11 ~~obligations of the Department of Water Resources pursuant to~~
12 ~~Division 27 (commencing with Section 80000) of the Water Code~~
13 ~~are fully paid or otherwise discharged.~~

14 ~~(2) Any additional costs of the Department of Water Resources,~~
15 ~~equal to the customer's proportionate share of the Department of~~
16 ~~Water Resources' estimated net unavoidable electricity purchase~~
17 ~~contract costs as determined by the commission, for the period~~
18 ~~commencing with the customer's purchases of electricity from the~~
19 ~~community choice aggregator, through the expiration of all then~~
20 ~~existing electricity purchase contracts entered into by the~~
21 ~~Department of Water Resources.~~

22 ~~(f) A retail end-use customer purchasing electricity from a~~
23 ~~community choice aggregator pursuant to this section shall~~
24 ~~reimburse the electrical corporation that previously served the~~
25 ~~customer for all of the following:~~

26 ~~(1) The electrical corporation's unrecovered past~~
27 ~~undercollections for electricity purchases, including any financing~~
28 ~~costs, attributable to that customer, that the commission lawfully~~
29 ~~determines may be recovered in rates.~~

30 ~~(2) Any additional costs of the electrical corporation recoverable~~
31 ~~in commission-approved rates, equal to the share of the electrical~~
32 ~~corporation's estimated net unavoidable electricity purchase~~
33 ~~contract costs attributable to the customer, as determined by the~~
34 ~~commission, for the period commencing with the customer's~~
35 ~~purchases of electricity from the community choice aggregator,~~
36 ~~through the expiration of all then existing electricity purchase~~
37 ~~contracts entered into by the electrical corporation.~~

38 ~~(g) (1) Any charges imposed pursuant to subdivision (e) shall~~
39 ~~be the property of the Department of Water Resources. Any charges~~
40 ~~imposed pursuant to subdivision (f) shall be the property of the~~

1 electrical corporation. The commission shall establish mechanisms,
2 including agreements with, or orders with respect to, electrical
3 corporations necessary to ensure that charges payable pursuant to
4 this section shall be promptly remitted to the party entitled to
5 payment.

6 ~~(2) Charges imposed pursuant to subdivisions (d), (e), and (f)~~
7 ~~shall be nonbypassable.~~

8 ~~(h) Notwithstanding Section 80110 of the Water Code, the~~
9 ~~commission shall authorize community choice aggregation only~~
10 ~~if the commission imposes a cost-recovery mechanism pursuant~~
11 ~~to subdivisions (d), (e), (f), and (g). Except as provided by this~~
12 ~~subdivision, this section shall not alter the suspension by the~~
13 ~~commission of direct purchases of electricity from alternate~~
14 ~~providers other than by community choice aggregators, pursuant~~
15 ~~to Section 80110 of the Water Code.~~

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

21 ~~(2) The commission shall not authorize community choice~~
22 ~~aggregation until it submits a report certifying compliance with~~
23 ~~paragraph (1) to the Senate Energy, Utilities and Communications~~
24 ~~Committee, or its successor, and the Assembly Committee on~~
25 ~~Utilities and Commerce, or its successor.~~

26 ~~(3) The commission shall not authorize community choice~~
27 ~~aggregation until it has adopted rules for implementing community~~
28 ~~choice aggregation.~~

29 ~~(j) The commission shall prepare and submit to the Legislature,~~
30 ~~on or before January 1, 2006, a report regarding the number of~~
31 ~~community choice aggregations, the number of customers served~~
32 ~~by community choice aggregations, third-party suppliers to~~
33 ~~community choice aggregations, compliance with this section, and~~
34 ~~the overall effectiveness of community choice aggregation~~
35 ~~programs.~~

36 ~~SEC. 12. Section 380 of the Public Utilities Code is amended~~
37 ~~to read:~~

38 ~~380. (a) The commission, in consultation with the Independent~~
39 ~~System Operator, shall establish resource adequacy requirements~~
40 ~~for all load-serving entities.~~

1 ~~(b) In establishing resource adequacy requirements, the~~
2 ~~commission shall achieve all of the following objectives:~~

3 ~~(1) Facilitate development of new generating capacity and~~
4 ~~retention of existing generating capacity that is economic and~~
5 ~~needed.~~

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

8 ~~(3) Minimize enforcement requirements and costs.~~

9 ~~(c) Each load-serving entity shall maintain physical generating~~
10 ~~capacity adequate to meet its load requirements, including, but not~~
11 ~~limited to, peak demand and planning and operating reserves. The~~
12 ~~generating capacity shall be deliverable to locations and at times~~
13 ~~as may be necessary to provide reliable electric service.~~

14 ~~(d) Each load-serving entity shall, at a minimum, meet the most~~
15 ~~recent minimum planning reserve and reliability criteria approved~~
16 ~~by the Board of Trustees of the Western Systems Coordinating~~
17 ~~Council or the Western Electricity Coordinating Council.~~

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

27 ~~(f) The commission shall require sufficient information,~~
28 ~~including, but not limited to, anticipated load, actual load, and~~
29 ~~measures undertaken by a load-serving entity to ensure resource~~
30 ~~adequacy, to be reported to enable the commission to determine~~
31 ~~compliance with the resource adequacy requirements established~~
32 ~~by the commission.~~

33 ~~(g) An electrical corporation's costs of meeting resource~~
34 ~~adequacy requirements, including, but not limited to, the costs~~
35 ~~associated with system reliability and local area reliability, that~~
36 ~~are determined to be reasonable by the commission, or are~~
37 ~~otherwise recoverable under a procurement plan approved by the~~
38 ~~commission pursuant to Section 454.5, shall be fully recoverable~~
39 ~~from those customers on whose behalf the costs are incurred, as~~
40 ~~determined by the commission, at the time the commitment to~~

1 incur the cost is made or thereafter, on a fully nonbypassable basis,
2 as determined by the commission. The commission shall exclude
3 any amounts authorized to be recovered pursuant to Section 366.2
4 when authorizing the amount of costs to be recovered from
5 customers of a community choice aggregator or from customers
6 that purchase electricity through a direct transaction pursuant to
7 this subdivision.

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

10 (1) Meeting the objectives of this section.

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

12 (3) Ensuring that existing generating capacity that is economic
13 is retained.

14 (4) Ensuring that the cost of generating capacity is allocated
15 equitably.

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

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

23 (1) A local publicly owned electric utility.

24 (2) The State Water Resources Development System commonly
25 known as the State Water Project.

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

30 (A) It takes standby service from the electrical corporation on
31 a commission-approved rate schedule that provides for adequate
32 backup planning and operating reserves for the standby customer
33 class.

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

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

1 ~~SEC. 13.— Section 387 of the Public Utilities Code is amended~~
2 ~~to read:~~

3 ~~387. (a) Each governing body of a local publicly owned electric~~
4 ~~utility shall be responsible for implementing and enforcing a~~
5 ~~renewables portfolio standard that recognizes the intent of the~~
6 ~~Legislature to encourage renewable resources, while taking into~~
7 ~~consideration the effect of the standard on rates, reliability, and~~
8 ~~financial resources and the goal of environmental improvement.~~

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

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

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

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

29 ~~SEC. 14.— Section 387.5 of the Public Utilities Code is amended~~
30 ~~to read:~~

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

39 ~~(b) On or before January 1, 2008, a local publicly owned electric~~
40 ~~utility shall offer monetary incentives for the installation of solar~~

1 energy systems of at least two dollars and eighty cents (\$2.80) per
2 installed watt, or for the electricity produced by the solar energy
3 system, measured in kilowatthours, as determined by the governing
4 board of a local publicly owned electric utility, for photovoltaic
5 solar energy systems. The incentive level shall decline each year
6 thereafter at a rate of no less than an average of 7 percent per year.

7 ~~(e) A local publicly owned electric utility shall initiate a public
8 proceeding to fund a solar energy program to adequately support
9 the goal of installing 3,000 megawatts of photovoltaic solar energy
10 in California. The proceeding shall determine what additional
11 funding, if any, is necessary to provide the incentives pursuant to
12 subdivision (b). The public proceeding shall be completed and the
13 comprehensive solar energy program established by January 1,
14 2008.~~

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

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

22 ~~(2) That solar energy systems receiving monetary incentives
23 are intended primarily to offset part or all of the consumer's own
24 electricity demand.~~

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

28 ~~(4) That the solar energy system has a warranty of not less than
29 10 years to protect against defects and undue degradation of
30 electrical generation output.~~

31 ~~(5) That the solar energy system be located on the same premises
32 of the end-use consumer where the consumer's own electricity
33 demand is located.~~

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

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

1 ~~(8) That the solar energy system be installed in conformance~~
2 ~~with the manufacturer's specifications and in compliance with all~~
3 ~~applicable electrical and building code standards.~~

4 ~~(e) A local publicly owned electric utility shall, on an annual~~
5 ~~basis beginning June 1, 2008, make available to its customers, to~~
6 ~~the Legislature, and to the State Energy Resources Conservation~~
7 ~~and Development Commission, information relating to the utility's~~
8 ~~solar initiative program established pursuant to this section,~~
9 ~~including, but not limited to, the number of photovoltaic solar~~
10 ~~watts installed, the total number of photovoltaic systems installed,~~
11 ~~the total number of applicants, the amount of incentives awarded,~~
12 ~~and the contribution toward the program goals.~~

13 ~~(f) In establishing the program required by this section, no~~
14 ~~moneys shall be diverted from any existing programs for~~
15 ~~low-income ratepayers, or from cost-effective energy efficiency~~
16 ~~or demand response programs.~~

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

26 ~~SEC. 15. Section 394.5 of the Public Utilities Code is amended~~
27 ~~to read:~~

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

37 ~~(1) A clear description of the price, terms, and conditions of~~
38 ~~service, including:~~

39 ~~(A) The price of electricity expressed in a format which makes~~
40 ~~it possible for residential and small commercial customers to~~

1 ~~compare and select among similar products and services on a~~
2 ~~standard basis. The commission shall adopt rules to implement~~
3 ~~this subdivision. The commission shall require disclosure of the~~
4 ~~total price of electricity on a cents-per-kilowatt-hour basis, including~~
5 ~~the costs of all electric services and charges regulated by the~~
6 ~~commission. The commission shall also require estimates of the~~
7 ~~total monthly bill for the electric service at varying consumption~~
8 ~~levels, including the costs of all electric services and charges~~
9 ~~regulated by the commission. In determining these rules, the~~
10 ~~commission may consider alternatives to the cent-per-kilowatt-hour~~
11 ~~disclosure if other information would provide the customer with~~
12 ~~sufficient information to compare among alternatives on a standard~~
13 ~~basis.~~

14 ~~(B) Separate disclosure of all recurring and nonrecurring charges~~
15 ~~associated with the sale of electricity.~~

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

18 ~~(2) An explanation of the applicability and amount of the~~
19 ~~competition transition charge, as determined pursuant to Sections~~
20 ~~367 to 376, inclusive.~~

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

23 ~~(4) An explanation of the customer's financial obligations, as~~
24 ~~well as the procedures regarding past due payments, discontinuance~~
25 ~~of service, billing disputes, and service complaints.~~

26 ~~(5) The electric service provider's registration number, if~~
27 ~~applicable.~~

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

31 ~~(7) A description of the availability of low-income assistance~~
32 ~~programs for qualified customers and how customers can apply~~
33 ~~for these programs.~~

34 ~~(b) The commission may assist electric service providers in~~
35 ~~developing the notice. The commission may suggest inclusion of~~
36 ~~additional information it deems necessary for the consumer~~
37 ~~protection purposes of this section. On at least a semiannual basis,~~
38 ~~electric service providers shall provide the commission with a copy~~
39 ~~of the form of notice included in standard service plans made~~

1 available to residential and small commercial customers as
2 described in subdivision (a) of Section 392.1.

3 (e) Any electric service provider offering electric services who
4 declines to provide those services to a consumer shall, upon request
5 of the consumer, disclose to that consumer the reason for the denial
6 in writing within 30 days. At the time service is denied, the electric
7 service provider shall disclose to the consumer his or her right to
8 make this request. Consumers shall have at least 30 days from the
9 date service is denied to make the request.

10 SEC. 16. Section 395.5 of the Public Utilities Code is amended
11 to read:

12 395.5. (a) For purposes of this section, the following terms
13 have the following meanings:

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

18 (2) “Electric commodity” means electricity used by the customer
19 or a supply of electricity available for use by the customer, and
20 does not include services associated with the transmission and
21 distribution of electricity.

22 (b) Notwithstanding Section 80110 of the Water Code, a
23 nonprofit charitable organization may acquire electric commodity
24 service through a direct transaction with an electric service provider
25 if electric commodity service is donated free of charge without
26 compensation.

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

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

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

35 (3) A nonbypassable charge imposed pursuant to Article 7
36 (commencing with Section 381), Article 8 (commencing with
37 Section 385), or Article 15 (commencing with Section 399).

38 (4) Costs imposed upon a load-serving entity pursuant to Section
39 380.

1 ~~(d) Existing direct access rules and all service obligations~~
2 ~~otherwise applicable to electric service providers shall govern~~
3 ~~transactions under this section.~~

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

7 ~~SEC. 17. The heading of Article 15 of Chapter 2.3 of Part 1 of~~
8 ~~Division 1 of the Public Utilities Code, as added by Section 4 of~~
9 ~~Chapter 1051 of the Statutes of 2000, is repealed.~~

10 ~~SEC. 18. Section 399.1 of the Public Utilities Code is repealed.~~

11 ~~SEC. 19. Section 399.25 of the Public Utilities Code is~~
12 ~~amended and renumbered to read:~~

13 ~~399.2.5. (a) Notwithstanding any other provision in Sections~~
14 ~~1001 to 1013, inclusive, an application of an electrical corporation~~
15 ~~for a certificate authorizing the construction of new transmission~~
16 ~~facilities shall be deemed to be necessary to the provision of~~
17 ~~electric service for purposes of any determination made under~~
18 ~~Section 1003 if the commission finds that the new facility is~~
19 ~~necessary to facilitate achievement of the renewable power goals~~
20 ~~established in Article 16 (commencing with Section 399.11).~~

21 ~~(b) With respect to a transmission facility described in~~
22 ~~subdivision (a), the commission shall take all feasible actions to~~
23 ~~ensure that the transmission rates established by the Federal Energy~~
24 ~~Regulatory Commission are fully reflected in any retail rates~~
25 ~~established by the commission. These actions shall include, but~~
26 ~~are not limited to:~~

27 ~~(1) Making findings, where supported by an evidentiary record,~~
28 ~~that those transmission facilities provide benefit to the transmission~~
29 ~~network and are necessary to facilitate the achievement of the~~
30 ~~renewables portfolio standard established in Article 16~~
31 ~~(commencing with Section 399.11).~~

32 ~~(2) Directing the utility to which the generator will be~~
33 ~~interconnected, where the direction is not preempted by federal~~
34 ~~law, to seek the recovery through general transmission rates of the~~
35 ~~costs associated with the transmission facilities.~~

36 ~~(3) Asserting the positions described in paragraphs (1) and (2)~~
37 ~~to the Federal Energy Regulatory Commission in appropriate~~
38 ~~proceedings.~~

39 ~~(4) Allowing recovery in retail rates of any increase in~~
40 ~~transmission costs incurred by an electrical corporation resulting~~

1 from the construction of the transmission facilities that are not
2 approved for recovery in transmission rates by the Federal Energy
3 Regulatory Commission after the commission determines that the
4 costs were prudently incurred in accordance with subdivision (a)
5 of Section 454.

6 ~~SEC. 20. Section 399.12 of the Public Utilities Code is~~
7 ~~amended to read:~~

8 ~~399.12. For purposes of this article, the following terms have~~
9 ~~the following meanings:~~

10 (a) ~~“Delivered” and “delivery” have the same meaning as~~
11 ~~provided in subdivision (a) of Section 25741 of the Public~~
12 ~~Resources Code.~~

13 (b) ~~“Eligible renewable energy resource” means an electric~~
14 ~~generating facility that meets the definition of “in-state renewable~~
15 ~~electricity generation facility” in Section 25741 of the Public~~
16 ~~Resources Code, subject to the following limitations:~~

17 (1) (A) ~~An existing small hydroelectric generation facility of~~
18 ~~30 megawatts or less shall be eligible only if a retail seller owned~~
19 ~~or procured the electricity from the facility as of December 31,~~
20 ~~2005. A new hydroelectric facility is not an eligible renewable~~
21 ~~energy resource if it will require a new or increased appropriation~~
22 ~~or diversion of water from a watercourse.~~

23 (B) ~~Notwithstanding subparagraph (A), an existing conduit~~
24 ~~hydroelectric facility, as defined by Section 823a of Title 16 of~~
25 ~~the United States Code, of 30 megawatts or less, shall be an eligible~~
26 ~~renewable energy resource. A new conduit hydroelectric facility,~~
27 ~~as defined by Section 823a of Title 16 of the United States Code,~~
28 ~~of 30 megawatts or less, shall be an eligible renewable energy~~
29 ~~resource so long as it does not require a new or increased~~
30 ~~appropriation or diversion of water from a watercourse.~~

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

35 (c) ~~“Procure” means that a retail seller receives delivered~~
36 ~~electricity generated by an eligible renewable energy resource that~~
37 ~~it owns or for which it has entered into an electricity purchase~~
38 ~~agreement. Nothing in this article is intended to imply that the~~
39 ~~purchase of electricity from third parties in a wholesale transaction~~

1 is the preferred method of fulfilling a retail seller's obligation to
2 comply with this article.

3 (d) ~~“Renewables portfolio standard” means the specified~~
4 ~~percentage of electricity generated by eligible renewable energy~~
5 ~~resources that a retail seller is required to procure pursuant to this~~
6 ~~article.~~

7 (e) (1) ~~“Renewable energy credit” means a certificate of proof,~~
8 ~~issued through the accounting system established by the Energy~~
9 ~~Commission pursuant to Section 399.13, that one unit of electricity~~
10 ~~was generated and delivered by an eligible renewable energy~~
11 ~~resource.~~

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

19 (3) ~~No electricity generated by an eligible renewable energy~~
20 ~~resource attributable to the use of nonrenewable fuels, beyond a~~
21 ~~de minimus quantity, as determined by the Energy Commission,~~
22 ~~shall result in the creation of a renewable energy credit.~~

23 (f) ~~“Retail seller” means an entity engaged in the retail sale of~~
24 ~~electricity to end-use customers located within the state, including~~
25 ~~any of the following:~~

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

27 (2) ~~A community choice aggregator. The commission shall~~
28 ~~institute a rulemaking to determine the manner in which a~~
29 ~~community choice aggregator will participate in the renewables~~
30 ~~portfolio standard program subject to the same terms and conditions~~
31 ~~applicable to an electrical corporation.~~

32 (3) ~~An electric service provider, as defined in Section 218.3,~~
33 ~~for all sales of electricity to customers beginning January 1, 2006.~~
34 ~~The commission shall institute a rulemaking to determine the~~
35 ~~manner in which electric service providers will participate in the~~
36 ~~renewables portfolio standard program. The electric service~~
37 ~~provider shall be subject to the same terms and conditions~~
38 ~~applicable to an electrical corporation pursuant to this article.~~
39 ~~Nothing in this paragraph shall impair a contract entered into~~
40 ~~between an electric service provider and a retail customer prior to~~

1 ~~the suspension of direct access by the commission pursuant to~~
2 ~~Section 80110 of the Water Code.~~

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

4 ~~(A) A corporation or person employing cogeneration technology~~
5 ~~or producing electricity consistent with subdivision (b) of Section~~
6 ~~218.~~

7 ~~(B) The Department of Water Resources acting in its capacity~~
8 ~~pursuant to Division 27 (commencing with Section 80000) of the~~
9 ~~Water Code.~~

10 ~~(C) A local publicly owned electric utility.~~

11 ~~SEC. 20.5. Section 399.12 of the Public Utilities Code is~~
12 ~~amended to read:~~

13 ~~399.12. For purposes of this article, the following terms have~~
14 ~~the following meanings:~~

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

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

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

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

34 ~~(B) Notwithstanding subparagraph (A), a conduit hydroelectric~~
35 ~~facility of 30 megawatts or less, that commenced operation before~~
36 ~~January 1, 2006, is an eligible renewable energy resource. A~~
37 ~~conduit hydroelectric facility of 30 megawatts or less that~~
38 ~~commences operation after December 31, 2005, is an eligible~~
39 ~~renewable energy resource so long as it does not cause an adverse~~

1 impact on instream beneficial uses or cause a change in the volume
2 or timing of streamflow.

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

7 (d) “Procure” means that a retail seller receives delivered
8 electricity generated by an eligible renewable energy resource that
9 it owns or for which it has entered into an electricity purchase
10 agreement. Nothing in this article is intended to imply that the
11 purchase of electricity from third parties in a wholesale transaction
12 is the preferred method of fulfilling a retail seller’s obligation to
13 comply with this article.

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.

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

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

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

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

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

38 (2) A community choice aggregator. The commission shall
39 institute a rulemaking to determine the manner in which a
40 community choice aggregator will participate in the renewables

1 portfolio standard program subject to the same terms and conditions
2 applicable to an electrical corporation.

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

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

15 ~~(A) A corporation or person employing cogeneration technology~~
16 ~~or producing electricity consistent with subdivision (b) of Section~~
17 ~~218.~~

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

21 ~~(C) A local publicly owned electric utility.~~

22 ~~SEC. 21. The heading of Article 5 of Chapter 2.5 of Part 1 of~~
23 ~~Division 1 of the Public Utilities Code is repealed.~~

24 ~~SEC. 22. Section 701.8 of the Public Utilities Code is amended~~
25 ~~to read:~~

26 ~~701.8. (a) To ensure that electrical corporations do not operate~~
27 ~~their transmission and distribution monopolies in a manner that~~
28 ~~impedes the ability of the San Francisco Bay Area Rapid Transit~~
29 ~~District (BART District) to reduce its electricity cost through the~~
30 ~~purchase and delivery of preference power, electrical corporations~~
31 ~~shall meet the requirements of this section.~~

32 ~~(b) Any electrical corporation that owns and operates~~
33 ~~transmission and distribution facilities that deliver electricity at~~
34 ~~one or more locations to the BART District’s system shall, upon~~
35 ~~request by the BART District, and without discrimination or delay,~~
36 ~~use the same facilities to deliver preference power purchased from~~
37 ~~a federal power marketing agency or its successor, or electricity~~
38 ~~purchased from a local publicly owned electric utility.~~

39 ~~(c) Where the BART District purchases electricity at more than~~
40 ~~one location, at any voltage, from an electric utility under tariffs~~

1 regulated by the commission, the utility shall bill the BART District
2 for usage as though all the electricity purchased at transmission
3 level voltages were metered by a single meter at one location and
4 all the electricity purchased at subtransmission voltages were
5 metered by a single meter at one location, provided that any billing
6 for demand charges would be based on the coincident demand of
7 transmission and distribution metering.

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

13 (e) When the BART District elects to have electricity delivered
14 pursuant to subdivision (b), neither Sections 365 and 366, and any
15 commission regulations, orders, or tariffs, that implement direct
16 transactions, are applicable, nor is the BART District an electricity
17 supplier. Neither the commission, nor any electrical corporation
18 that delivers the federal power or electricity purchased from a local
19 publicly owned electric utility to the BART District, shall require
20 that an electricity supplier be designated as a condition of the
21 delivery of that power.

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

24 (1) Electricity delivered pursuant to subdivision (b).

25 (2) Electricity supplied by one or more direct transactions.

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

29 SEC. 23. Section 761.3 of the Public Utilities Code is amended
30 to read:

31 761.3. (a) Notwithstanding subdivision (g) of Section 216 and
32 subdivision (e) of Section 218.5, the commission shall implement
33 and enforce standards adopted for the maintenance and operation
34 of facilities for the generation of electricity owned by an electrical
35 corporation or located in the state to ensure their reliable operation.
36 The commission shall enforce the protocols for the scheduling of
37 powerplant outages of the Independent System Operator.

38 (b) Nothing in this section authorizes the commission to
39 establish rates for wholesale sales in interstate commerce from
40 those facilities, or to approve the sale or transfer of control of

1 facilities of an exempt wholesale generator, as defined in the Public
2 Utility Holding Company Act of 2005 (42 U.S.C. Sec. 16541(6)).

3 ~~(e) (1) (A) Except as otherwise provided in this subdivision,~~
4 ~~this section shall not apply to nuclear powered generating facilities~~
5 ~~that are federally regulated and subject to standards developed by~~
6 ~~the Nuclear Regulatory Commission, and that participate as~~
7 ~~members of the Institute of Nuclear Power Operations.~~

8 ~~(B) The owner or operator of a nuclear powered generating~~
9 ~~facility shall file with the Oversight Board and the commission an~~
10 ~~annual schedule of maintenance, including repairs and upgrades,~~
11 ~~updated quarterly, for each generating facility. The owner or~~
12 ~~operator of a nuclear powered generating facility shall make good~~
13 ~~faith efforts to conduct its maintenance in compliance with its filed~~
14 ~~plan and shall report to the Oversight Board and the Independent~~
15 ~~System Operator any significant variations from its filed plan.~~

16 ~~(C) The owner or operator of a nuclear powered generating~~
17 ~~facility shall report on a monthly basis to the Oversight Board and~~
18 ~~the commission all actual planned and unplanned outages of each~~
19 ~~facility during the preceding month. The owner or operator of a~~
20 ~~nuclear powered generating facility shall report on a daily basis~~
21 ~~to the Oversight Board and the Independent System Operator the~~
22 ~~daily operational status and availability of each facility.~~

23 ~~(2) (A) Except as otherwise provided in this subdivision, this~~
24 ~~section shall not apply to a qualifying small power production~~
25 ~~facility or a qualifying cogeneration facility within the meaning~~
26 ~~of Sections 201 and 210 of Title 11 of the federal Public Utility~~
27 ~~Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18),~~
28 ~~and 824a-3), and the regulations adopted pursuant to those sections~~
29 ~~by the Federal Energy Regulatory Commission (18 C.F.R. Secs.~~
30 ~~292.101 to 292.602, inclusive), nor shall this section apply to other~~
31 ~~generation units installed, operated, and maintained at a customer~~
32 ~~site, exclusively to serve that customer's load.~~

33 ~~(B) An electrical corporation that has a contract with a qualifying~~
34 ~~small power production facility, or a qualifying cogeneration~~
35 ~~facility, with a name plate rating of 10 megawatts or greater, shall~~
36 ~~report to the Oversight Board and the commission maintenance~~
37 ~~schedules for each facility, including all actual planned and~~
38 ~~unplanned outages of the facility and the daily operational status~~
39 ~~and availability of the facility. Each facility with a name plate~~
40 ~~rating of ten megawatts or greater shall be responsible for directly~~

1 reporting to the Oversight Board and the Independent System
2 Operator maintenance schedules for each facility, including all
3 actual planned and unplanned outages of the facility and the daily
4 operational status and availability of the facility, if that information
5 is not provided to the electrical corporation pursuant to a contract.

6 (d) ~~Nothing in this section shall result in the modification, delay,
7 or abrogation of any deadline, standard, rule, or regulation adopted
8 by a federal, state, or local agency for the purposes of protecting
9 public health or the environment, including, but not limited to, any
10 requirements imposed by the State Air Resources Board or by an
11 air pollution control district or an air quality management district
12 pursuant to Division 26 (commencing with Section 39000) of the
13 Health and Safety Code. The Independent System Operator shall
14 consult with the State Air Resources Board and the appropriate
15 local air pollution control districts and air quality management
16 districts to coordinate scheduled outages to provide for compliance
17 with those retrofits.~~

18 (e) ~~The Independent System Operator shall maintain records of
19 generation facility outages and shall provide those records to the
20 Oversight Board and the commission on a daily basis. Each entity
21 that owns or operates an electric generating unit in California with
22 a rated maximum capacity of 10 megawatts or greater, shall provide
23 a monthly report to the Independent System Operator that identifies
24 any periods during the preceding month when the unit was
25 unavailable to produce electricity or was available only at reduced
26 capacity. The report shall identify the reasons for any such
27 unscheduled unavailability or reduced capacity. The Independent
28 System Operator shall immediately transmit the information to the
29 Oversight Board and the commission.~~

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

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

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

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

36 ~~SEC. 24. Section 776 of the Public Utilities Code is amended
37 to read:~~

38 ~~776. (a) The commission shall, in a single rulemaking or other
39 appropriate proceeding, not to exceed 18 months in duration,
40 consider the need for performance reliability standards and, upon~~

1 making the determination pursuant to subdivision (c), develop and
2 implement performance reliability standards, for all backup power
3 systems installed on the property of residential and small
4 commercial customers by a facilities-based provider of telephony
5 services. Those standards shall do all the following:

6 (1) Establish minimum operating life.
7 (2) Establish minimum periods of time during which a telephone
8 system with a charged backup power system will provide the
9 customer with sufficient electricity for emergency usage.

10 (3) Establish means to warn a customer when the backup power
11 system's charge is low or when the system can no longer hold a
12 charge.

13 (b) The commission, in developing and implementing any
14 standards in accordance with subdivision (a), shall consider current
15 best practices and technical feasibility for establishing battery
16 backup requirements.

17 (c) The commission shall not implement standards in accordance
18 with this section unless it determines that the benefits of the
19 standards exceed the costs.

20 (d) Before March 31, 2008, the commission shall prepare and
21 submit to the Legislature a report on the results of the proceeding.

22 SEC. 25. Section 848 of the Public Utilities Code is amended
23 to read:

24 848. For the purposes of this article, the following terms shall
25 have the following meanings:

26 (a) "Consumer" means any individual, governmental body,
27 trust, business entity or nonprofit organization which consumes
28 electricity that has been transmitted or distributed by means of
29 electric transmission or distribution facilities, whether those electric
30 transmission or distribution facilities are owned by the consumer,
31 the recovery corporation, or any other party.

32 (b) "Financing entity" means the recovery corporation or any
33 subsidiary or affiliate of the recovery corporation that is authorized
34 by the commission to issue recovery bonds or acquire recovery
35 property, or both.

36 (c) "Financing order" means an order of the commission adopted
37 in accordance with this article, which shall include, without
38 limitation, a procedure to require the expeditious approval by the
39 commission of periodic adjustments to fixed recovery amounts
40 and to any associated fixed recovery tax amounts included in that

1 financing order to ensure recovery of all recovery costs and the
2 costs associated with the proposed recovery, financing, or
3 refinancing thereof, including the costs of servicing and retiring
4 the recovery bonds contemplated by the financing order.

5 (d) “Fixed recovery amounts” means those nonbypassable rates
6 and other charges, including, but not limited to, distribution,
7 connection, disconnection, and termination rates and charges, that
8 are authorized by the commission in a financing order to recover
9 (1) recovery costs specified in the financing order, and (2) the costs
10 of recovering, financing, or refinancing those recovery costs
11 through a plan approved by the commission in the financing order,
12 including the costs of servicing and retiring recovery bonds.

13 (e) “Fixed recovery tax amounts” means those nonbypassable
14 rates and other charges, including, but not limited to, distribution,
15 connection, disconnection, and termination rates and charges, that
16 are needed to recover federal and State of California income and
17 franchise taxes associated with fixed recovery amounts authorized
18 by the commission in the financing order and that are not financed
19 from proceeds of recovery bonds.

20 (f) “Recovery bonds” means bonds, notes, certificates of
21 participation or beneficial interest, or other evidences of
22 indebtedness or ownership, issued pursuant to an executed
23 indenture or other agreement of a financing entity, the proceeds
24 of which are used, directly or indirectly, to recover, finance, or
25 refinance recovery costs, and that are directly or indirectly secured
26 by, or payable from, recovery property.

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

30 (h) “Recovery costs” means (1) the unamortized balance of the
31 regulatory asset arising and existing pursuant to the commission’s
32 Decision No. 03-12-035, (2) federal and State of California income
33 and franchise taxes associated with recovery of the unamortized
34 balance of that regulatory asset, (3) costs of issuing recovery bonds,
35 and (4) professional fees, consultant fees, redemption premiums,
36 tender premiums and other costs incurred by the recovery
37 corporation in using proceeds of recovery bonds to acquire
38 outstanding securities of the recovery corporation.

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

4 (A) ~~In and to the tariff established pursuant to a financing order,~~
5 ~~as adjusted from time to time in accordance with Section 848.1~~
6 ~~and the financing order.~~

7 (B) ~~To be paid the amount that is determined in a financing~~
8 ~~order to be the amount that the recovery corporation or its~~
9 ~~transferee is lawfully entitled to receive pursuant to the provisions~~
10 ~~of this article and the proceeds thereof, and in and to all revenues,~~
11 ~~collections, claims, payments, money, or proceeds of or arising~~
12 ~~from the tariff or constituting fixed recovery amounts that are the~~
13 ~~subject of a financing order including those nonbypassable rates~~
14 ~~and other charges referred to in subdivision (d).~~

15 (C) ~~In and to all rights to obtain adjustments to the tariff relating~~
16 ~~to fixed recovery amounts pursuant to the terms of Section 848.1~~
17 ~~and the financing order.~~

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

20 (3) ~~“Recovery property” shall constitute a current property right~~
21 ~~notwithstanding the fact that the value of the property right will~~
22 ~~depend on consumers using electricity or, in those instances where~~
23 ~~consumers are customers of the recovery corporation, the recovery~~
24 ~~corporation performing certain services.~~

25 (j) ~~“Service territory” means the geographical area that the~~
26 ~~recovery corporation provided with electric distribution service as~~
27 ~~of December 19, 2003.~~

28 ~~SEC. 26. Section 2774.5 of the Public Utilities Code is~~
29 ~~amended to read:~~

30 ~~2774.5. An electrical corporation or local publicly owned~~
31 ~~electric utility shall immediately notify the Commissioner of the~~
32 ~~California Highway Patrol, the Office of Emergency Services, and~~
33 ~~the sheriff and any affected chief of police of the specific area~~
34 ~~within their respective law enforcement jurisdictions that will~~
35 ~~sustain a planned loss of power as soon as the planned loss becomes~~
36 ~~known as to when and where that power loss will occur. The~~
37 ~~notification shall include common geographical boundaries, grid~~
38 ~~or block numbers of the affected area, and the next anticipated~~
39 ~~power loss area designated by the electrical corporation or public~~
40 ~~entity during rotating blackouts.~~

1 ~~SEC. 27.~~ Section 2827 of the Public Utilities Code is amended
2 to read:

3 ~~2827. (a) The Legislature finds and declares that a program~~
4 ~~to provide net energy metering, co-energy metering, and wind~~
5 ~~energy co-metering for eligible customer-generators is one way~~
6 ~~to encourage substantial private investment in renewable energy~~
7 ~~resources, stimulate in-state economic growth, reduce demand for~~
8 ~~electricity during peak consumption periods, help stabilize~~
9 ~~California's energy supply infrastructure, enhance the continued~~
10 ~~diversification of California's energy resource mix, and reduce~~
11 ~~interconnection and administrative costs for electricity suppliers.~~

12 ~~(b) As used in this section, the following terms have the~~
13 ~~following meanings:~~

14 ~~(1) "Co-energy metering" means a program that is the same in~~
15 ~~all other respects as a net energy metering program, except that~~
16 ~~the local publicly owned electric utility has elected to apply a~~
17 ~~generation-to-generation energy and time-of-use credit formula~~
18 ~~as provided in subdivision (i).~~

19 ~~(2) "Electrical cooperative" means an electrical cooperative as~~
20 ~~defined in Section 2776.~~

21 ~~(3) "Electric distribution utility or cooperative" means an~~
22 ~~electrical corporation, a local publicly owned electric utility, or an~~
23 ~~electrical cooperative, or any other entity, except an electric service~~
24 ~~provider, that offers electrical service. This section shall not apply~~
25 ~~to a local publicly owned electric utility that serves more than~~
26 ~~750,000 customers and that also conveys water to its customers.~~

27 ~~(4) "Eligible customer-generator" means a residential, small~~
28 ~~commercial customer as defined in subdivision (h) of Section 331,~~
29 ~~commercial, industrial, or agricultural customer of an electricity~~
30 ~~distribution utility or cooperative, who uses a solar or a wind~~
31 ~~turbine electrical generating facility, or a hybrid system of both,~~
32 ~~with a capacity of not more than one megawatt that is located on~~
33 ~~the customer's owned, leased, or rented premises, is interconnected~~
34 ~~and operates in parallel with the electric grid, and is intended~~
35 ~~primarily to offset part or all of the customer's own electrical~~
36 ~~requirements.~~

37 ~~(5) "Net energy metering" means measuring the difference~~
38 ~~between the electricity supplied through the electric grid and the~~
39 ~~electricity generated by an eligible customer-generator and fed~~
40 ~~back to the electric grid over a 12-month period as described in~~

1 subdivision (h). An eligible customer-generator who already owns
2 an existing solar or wind turbine electrical generating facility, or
3 a hybrid system of both, is eligible to receive net energy metering
4 service in accordance with this section.

5 (6) “Ratemaking authority” means, for an electrical corporation,
6 electrical cooperative, or electric service provider, the commission
7 and for a local publicly owned electric utility, the local elected
8 body responsible for setting the rates of the local publicly owned
9 utility.

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

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

1 ~~(2) (A) On an annual basis, beginning in 2003, every electricity~~
2 ~~distribution utility or cooperative shall make available to the~~
3 ~~ratemaking authority information on the total rated generating~~
4 ~~capacity used by eligible customer-generators that are customers~~
5 ~~of that provider in the provider's service~~

6 ~~(B) An electric service provider operating pursuant to Section~~
7 ~~394 shall make available to the ratemaking authority the~~
8 ~~information required by this paragraph for each eligible~~
9 ~~customer-generator that is their customer for each service area of~~
10 ~~an electric corporation, local publicly owned electric utility, or~~
11 ~~electrical cooperative, in which the customer has net energy~~
12 ~~metering.~~

13 ~~(C) The ratemaking authority shall develop a process for making~~
14 ~~the information required by this paragraph available to electricity~~
15 ~~distribution utilities and cooperatives, and for using that~~
16 ~~information to determine when, pursuant to paragraphs (1) and~~
17 ~~(3), an electricity distribution utility or cooperative is not obligated~~
18 ~~to provide net energy metering to additional customer-generators~~
19 ~~in its service area.~~

20 ~~(3) An electricity distribution utility or cooperative is not~~
21 ~~obligated to provide net energy metering to additional~~
22 ~~customer-generators in its service area when the combined total~~
23 ~~peak demand of all customer-generators served by all the electricity~~
24 ~~distribution utilities or cooperatives in that service area furnishing~~
25 ~~net energy metering to eligible customer-generators exceeds 2.5~~
26 ~~percent of the aggregate customer peak demand of those electricity~~
27 ~~distribution utilities or cooperatives.~~

28 ~~(4) By January 1, 2010, the commission, in consultation with~~
29 ~~the Energy Commission, shall submit a report to the Governor and~~
30 ~~the Legislature on the costs and benefits of net energy metering,~~
31 ~~wind energy co-metering, and co-energy metering to participating~~
32 ~~customers and nonparticipating customers and with options to~~
33 ~~replace the economic costs and benefits of net energy metering,~~
34 ~~wind energy co-metering, and co-energy metering with a~~
35 ~~mechanism that more equitably balances the interests of~~
36 ~~participating and nonparticipating customers, and that incorporates~~
37 ~~the findings of the report on economic and environmental costs~~
38 ~~and benefits of net metering required by subdivision (n).~~

1 ~~(d) Every electricity distribution utility or cooperative shall~~
2 ~~make all necessary forms and contracts for net metering service~~
3 ~~available for download from the Internet.~~

4 ~~(e) (1) Every electricity distribution utility or cooperative shall~~
5 ~~ensure that requests for establishment of net energy metering are~~
6 ~~processed in a time period not exceeding that for similarly situated~~
7 ~~customers requesting new electric service, but not to exceed 30~~
8 ~~working days from the date it receives a completed application~~
9 ~~form for net energy metering service, including a signed~~
10 ~~interconnection agreement from an eligible customer-generator~~
11 ~~and the electric inspection clearance from the governmental~~
12 ~~authority having jurisdiction.~~

13 ~~(2) Every electricity distribution utility or cooperative shall~~
14 ~~ensure that requests for an interconnection agreement from an~~
15 ~~eligible customer-generator are processed in a time period not to~~
16 ~~exceed 30 working days from the date the it receives a completed~~
17 ~~application form from the eligible customer-generator for an~~
18 ~~interconnection.~~

19 ~~(3) If an electricity distribution utility or cooperative is unable~~
20 ~~to process the request within the allowable timeframe, pursuant to~~
21 ~~paragraph (1) or (2), it shall notify the eligible customer-generator~~
22 ~~and the ratemaking authority of the reason for its inability to~~
23 ~~process the request and the expected completion date.~~

24 ~~(f) (1) If a customer participates in direct transactions pursuant~~
25 ~~to paragraph (1) of subdivision (b) of Section 365 with an electric~~
26 ~~service provider that does not provide distribution service for the~~
27 ~~direct transactions, the electricity distribution utility or cooperative~~
28 ~~that provides distribution service for an eligible customer-generator~~
29 ~~is not obligated to provide net energy metering to the customer.~~

30 ~~(2) If a customer participates in direct transactions pursuant to~~
31 ~~paragraph (1) of subdivision (b) of Section 365 with an electric~~
32 ~~service provider, and the customer is an eligible~~
33 ~~customer-generator, the electricity distribution utility or cooperative~~
34 ~~that provides distribution service for the direct transactions may~~
35 ~~recover from the customer's electric service provider the~~
36 ~~incremental costs of metering and billing service related to net~~
37 ~~energy metering in an amount set by the ratemaking authority.~~

38 ~~(g) Except for the time-variant kilowatthour pricing portion of~~
39 ~~any tariff adopted by the commission pursuant to paragraph (4) of~~
40 ~~subdivision (a) of Section 2851, each net energy metering contract~~

1 or tariff shall be identical, with respect to rate structure, all retail
2 rate components, and any monthly charges, to the contract or tariff
3 to which the same customer would be assigned if the customer did
4 not use an eligible solar or wind electrical generating facility,
5 except that eligible customer-generators shall not be assessed
6 standby charges on the electrical generating capacity or the
7 kilowatthour production of an eligible solar or wind electrical
8 generating facility. The charges for all retail rate components for
9 eligible customer-generators shall be based exclusively on the
10 customer-generator's net kilowatthour consumption over a
11 12-month period, without regard to the customer-generator's choice
12 to whom it purchases electricity that is not self-generated. Any
13 new or additional demand charge, standby charge, customer charge,
14 minimum monthly charge, interconnection charge, or any other
15 charge that would increase an eligible customer-generator's costs
16 beyond those of other customers who are not eligible
17 customer-generators in the rate class to which the eligible
18 customer-generator would otherwise be assigned if the customer
19 did not own, lease, rent, or otherwise operate an eligible solar or
20 wind electrical generating facility are contrary to the intent of this
21 section, and shall not form a part of net energy metering contracts
22 or tariffs.

23 (h) For ~~eligible residential and small commercial~~
24 ~~customer-generators~~, the net energy metering calculation shall be
25 made by measuring the difference between the electricity supplied
26 to the eligible customer-generator and the electricity generated by
27 the eligible customer-generator and fed back to the electric grid
28 over a 12-month period. The following rules shall apply to the
29 annualized net metering calculation:

30 (1) The ~~eligible residential or small commercial~~
31 ~~customer-generator~~ shall, at the end of each 12-month period
32 following the date of final interconnection of the eligible
33 ~~customer-generator's system with an electricity distribution utility~~
34 ~~or cooperative~~, and at each anniversary date thereafter, be billed
35 for electricity used during that 12-month period. The electricity
36 ~~distribution utility or cooperative shall determine if the eligible~~
37 ~~residential or small commercial customer-generator was a net~~
38 ~~consumer or a net producer of electricity during that period.~~

39 (2) At the end of each 12-month period, where the electricity
40 supplied during the period by the electricity distribution utility or

1 cooperative exceeds the electricity generated by the eligible
2 residential or small commercial customer-generator during that
3 same period, the eligible residential or small commercial
4 customer-generator is a net electricity consumer and the electricity
5 distribution utility or cooperative shall be owed compensation for
6 the eligible customer-generator's net kilowatthour consumption
7 over that 12-month period. The compensation owed for the eligible
8 residential or small commercial customer-generator's consumption
9 shall be calculated as follows:

10 (A) For all eligible customer-generators taking service under
11 contracts or tariffs employing "baseline" and "over baseline" rates
12 or charges, any net monthly consumption of electricity shall be
13 calculated according to the terms of the contract or tariff to which
14 the same customer would be assigned to or be eligible for, if the
15 customer was not an eligible customer-generator. If those same
16 customer-generators are net generators over a billing period, the
17 net kilowatthours generated shall be valued at the same price per
18 kilowatthour as the electricity distribution utility or cooperative
19 would charge for the baseline quantity of electricity during that
20 billing period, and if the number of kilowatthours generated
21 exceeds the baseline quantity, the excess shall be valued at the
22 same price per kilowatthour as the electricity distribution utility
23 or cooperative would charge for electricity over the baseline
24 quantity during that billing period.

25 (B) For all eligible customer-generators taking service under
26 contracts or tariffs employing "time-of-use" rates or charges, any
27 net monthly consumption of electricity shall be calculated
28 according to the terms of the contract or tariff to which the same
29 customer would be assigned to or be eligible for if the customer
30 was not an eligible customer-generator. When those same
31 customer-generators are net generators during any discrete
32 time-of-use period, the net kilowatthours produced shall be valued
33 at the same price per kilowatthour as the electricity distribution
34 utility or cooperative would charge for retail kilowatthour sales
35 during that same time-of-use period. If the eligible
36 customer-generator's time-of-use electrical meter is unable to
37 measure the flow of electricity in two directions, subparagraph
38 (A) of paragraph (1) of subdivision (c) shall apply.

39 (C) For all eligible residential and small commercial
40 customer-generators and for each billing period, the net balance

1 of moneys owed to the electricity distribution utility or cooperative
2 for net consumption of electricity or credits owed to the eligible
3 customer-generator for net generation of electricity shall be carried
4 forward as a monetary value until the end of each 12-month period.
5 For all eligible commercial, industrial, and agricultural
6 customer-generators the net balance of moneys owed shall be paid
7 in accordance with the electricity distribution utility or
8 cooperative's normal billing cycle, except that if the eligible
9 commercial, industrial, or agricultural customer-generator is a net
10 electricity producer over a normal billing cycle, any excess
11 kilowatthours generated during the billing cycle shall be carried
12 over to the following billing period as a monetary value, calculated
13 according to the procedures set forth in this section, and appear as
14 a credit on the eligible customer-generator's account, until the end
15 of the annual period when paragraph (3) shall apply.

16 (3) At the end of each 12-month period, where the electricity
17 generated by the eligible customer-generator during the 12-month
18 period exceeds the electricity supplied by the electricity distribution
19 utility or cooperative during that same period, the eligible
20 customer-generator is a net electricity producer and the electricity
21 distribution utility or cooperative shall retain any excess
22 kilowatthours generated during the prior 12-month period. The
23 eligible customer-generator shall not be owed any compensation
24 for those excess kilowatthours unless the electricity distribution
25 utility or cooperative enters into a purchase agreement with the
26 eligible customer-generator for those excess kilowatthours.

27 (4) The electricity distribution utility or cooperative shall provide
28 every eligible residential or small commercial customer-generator
29 with net electricity consumption information with each regular
30 bill. That information shall include the current monetary balance
31 owed the electricity distribution utility or cooperative for net
32 electricity consumed, or the current amount of excess electricity
33 produced, since the last 12-month period ended. Notwithstanding
34 this subdivision, an electricity distribution utility or cooperative
35 shall permit that customer to pay monthly for net energy consumed.

36 (5) If an eligible residential or small commercial
37 customer-generator terminates the customer relationship with the
38 electricity distribution utility or cooperative, the electricity
39 distribution utility or cooperative shall reconcile the eligible
40 customer-generator's consumption and production of electricity

1 during any part of a 12-month period following the last
2 reconciliation, according to the requirements set forth in this
3 subdivision, except that those requirements shall apply only to the
4 months since the most recent 12-month bill.

5 (6) If an electric service provider or electricity distribution utility
6 or cooperative providing net energy metering to a residential or
7 small commercial customer-generator ceases providing that electric
8 service to that customer during any 12-month period, and the
9 customer-generator enters into a new net energy metering contract
10 or tariff with a new electric service provider or electricity
11 distribution utility or cooperative, the 12-month period, with respect
12 to that new electric service provider or electricity distribution utility
13 or cooperative, shall commence on the date on which the new
14 electric service provider or electricity distribution utility or
15 cooperative first supplies electric service to the customer-generator.

16 (i) Notwithstanding any other provisions of this section, the
17 following provisions shall apply to an eligible customer-generator
18 with a capacity of more than 10 kilowatts, but not exceeding one
19 megawatt, that receives electric service from a local publicly owned
20 electric utility that has elected to utilize a co-energy metering
21 program unless the local publicly owned electric utility chooses
22 to provide service for eligible customer-generators with a capacity
23 of more than 10 kilowatts in accordance with subdivisions (g) and
24 (h):

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

1 ~~(2) The consumption of electricity from the local publicly owned~~
2 ~~electric utility shall result in a cost to the eligible~~
3 ~~customer-generator to be priced in accordance with the standard~~
4 ~~rate charged to the eligible customer-generator in accordance with~~
5 ~~the rate structure to which the customer would be assigned if the~~
6 ~~customer did not use an eligible solar or wind electrical generating~~
7 ~~facility. The generation of electricity provided to the local publicly~~
8 ~~owned electric utility shall result in a credit to the eligible~~
9 ~~customer-generator and shall be priced in accordance with the~~
10 ~~generation component, established under the applicable structure~~
11 ~~to which the customer would be assigned if the customer did not~~
12 ~~use an eligible solar or wind electrical generating facility.~~

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

33 ~~(j) A solar or wind turbine electrical generating system, or a~~
34 ~~hybrid system of both, used by an eligible customer-generator shall~~
35 ~~meet all applicable safety and performance standards established~~
36 ~~by the National Electrical Code, the Institute of Electrical and~~
37 ~~Electronics Engineers, and accredited testing laboratories, including~~
38 ~~Underwriters Laboratories and, where applicable, rules of the~~
39 ~~commission regarding safety and reliability. A customer-generator~~
40 ~~whose solar or wind turbine electrical generating system, or a~~

1 hybrid system of both, meets those standards and rules shall not
2 be required to install additional controls, perform or pay for
3 additional tests, or purchase additional liability insurance.

4 (k) If the commission determines that there are cost or revenue
5 obligations for an electric corporation, as defined in Section 218,
6 that may not be recovered from customer-generators acting
7 pursuant to this section, those obligations shall remain within the
8 customer class from which any shortfall occurred and may not be
9 shifted to any other customer class. Net-energy metering and
10 co-energy metering customers shall not be exempt from the public
11 goods charges imposed pursuant to Article 7 (commencing with
12 Section 381), Article 8 (commencing with Section 385), or Article
13 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its
14 report to the Legislature, the commission shall examine different
15 methods to ensure that the public goods charges remain
16 nonbypassable.

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

33 (m) In implementing the requirements of subdivisions (k) and
34 (l), a customer-generator shall not be required to replace its existing
35 meter except as set forth in subparagraph (A) of paragraph (1) of
36 subdivision (e), nor shall the electricity distribution utility or
37 cooperative require additional measurement of usage beyond that
38 which is necessary for customers in the same rate class as the
39 eligible customer-generator.

1 (n) ~~It is the intent of the Legislature that the Treasurer~~
2 ~~incorporate net energy metering, co-energy metering, and wind~~
3 ~~energy co-metering projects undertaken pursuant to this section~~
4 ~~as sustainable building methods or distributive energy technologies~~
5 ~~for purposes of evaluating low-income housing projects.~~

6 ~~SEC. 28.~~ ~~Section 2852 of the Public Utilities Code is amended~~
7 ~~to read:~~

8 ~~2852. (a) As used in this section, the following terms have the~~
9 ~~following meanings:~~

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

14 (2) ~~“Low-income residential housing” means either of the~~
15 ~~following:~~

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

23 (B) ~~A residential complex in which at least 20 percent of the~~
24 ~~total units are sold or rented to lower income households, as defined~~
25 ~~in Section 50079.5 of the Health and Safety Code, and the housing~~
26 ~~units targeted for lower income households are subject to a deed~~
27 ~~restriction or affordability covenant with a public entity that ensures~~
28 ~~that the units will be available at an affordable housing cost, as~~
29 ~~defined in Section 50052.5 of the Health and Safety Code, or at~~
30 ~~an affordable rent, as defined in Section 50053 of the Health and~~
31 ~~Safety Code for a period of at least 30 years.~~

32 (3) ~~“Solar energy system” means a solar energy device that has~~
33 ~~the primary purpose of providing for the collection and distribution~~
34 ~~of solar energy for the generation of electricity, that produces at~~
35 ~~least one kilowatt, and produces not more than five megawatts,~~
36 ~~alternating current rated peak electricity, and that meets or exceeds~~
37 ~~the eligibility criteria established by the commission or the State~~
38 ~~Energy Resources Conservation and Development Commission.~~

39 (b) ~~In establishing the California Solar Initiative, no moneys~~
40 ~~shall be diverted from any existing programs for low-income~~

1 ratepayers, or from cost-effective energy efficiency or demand
2 response programs.

3 (e) (1) ~~The commission shall ensure that not less than 10 percent~~
4 ~~of the funds for the California Solar Initiative are utilized for the~~
5 ~~installation of solar energy systems on low-income residential~~
6 ~~housing. Notwithstanding any other law, the commission may~~
7 ~~modify the monetary incentives made available pursuant to the~~
8 ~~California Solar Initiative to accommodate the limited financial~~
9 ~~resources of low-income residential housing.~~

10 (2) ~~The commission may incorporate a revolving loan or loan~~
11 ~~guarantee program into the California Solar Initiative for~~
12 ~~low-income residential housing. All loans outstanding as of January~~
13 ~~1, 2016, shall continue to be repaid consistent with the terms and~~
14 ~~conditions of the program adopted and implemented by the~~
15 ~~commission pursuant to this subdivision, until repaid in full.~~

16 (3) ~~All moneys set aside for the purpose of funding the~~
17 ~~installation of solar energy systems on low-income residential~~
18 ~~housing that are unexpended and unencumbered on January 1,~~
19 ~~2016, and all moneys thereafter repaid pursuant to paragraph (2),~~
20 ~~except to the extent those moneys are encumbered pursuant to this~~
21 ~~section, shall be utilized to augment existing cost-effective energy~~
22 ~~efficiency measures in low-income residential housing that benefit~~
23 ~~ratepayers.~~

24 ~~SEC. 29. Section 2872.5 of the Public Utilities Code is~~
25 ~~amended to read:~~

26 ~~2872.5. (a) The commission, in consultation with the Office~~
27 ~~of Emergency Services and the Department of General Services,~~
28 ~~shall open an investigative proceeding to determine whether~~
29 ~~standardized notification systems and protocol should be utilized~~
30 ~~by entities that are authorized to use automatic dialing-announcing~~
31 ~~devices pursuant to subdivision (c) of Section 2872, to facilitate~~
32 ~~notification of affected members of the public of local emergencies.~~
33 ~~The commission shall not establish standards for notification~~
34 ~~systems or standard notification protocol unless it determines that~~
35 ~~the benefits of the standards exceed the costs.~~

36 ~~(b) Before March 31, 2008, the commission shall prepare and~~
37 ~~submit to the Legislature a report on the results of the proceeding,~~
38 ~~including recommendations for funding notification systems and~~
39 ~~any statutory modifications needed to facilitate notification of~~
40 ~~affected members of the public of local emergencies.~~

1 SEC. 30. ~~Section 2892.1 of the Public Utilities Code is~~
2 ~~amended to read:~~

3 ~~2892.1. (a) For purposes of this section, “telecommunications~~
4 ~~service” means voice communication provided by a telephone~~
5 ~~corporation as defined in Section 234, voice communication~~
6 ~~provided by a provider of satellite telephone services, voice~~
7 ~~communication provided by a provider of mobile telephony service,~~
8 ~~as defined in Section 2890.2, and voice communication provided~~
9 ~~by a commercially available facilities-based provider of voice~~
10 ~~communication services utilizing voice over Internet Protocol or~~
11 ~~any successor protocol.~~

12 ~~(b) The commission, in consultation with the Office of~~
13 ~~Emergency Services and the Department of General Services, shall~~
14 ~~open an investigative or other appropriate proceeding to identify~~
15 ~~the need for telecommunications service systems not on the~~
16 ~~customer’s premises to have backup electricity to enable~~
17 ~~telecommunications networks to function and to enable the~~
18 ~~customer to contact a public safety answering point operator during~~
19 ~~an electrical outage, to determine performance criteria for backup~~
20 ~~systems, and to determine whether the best practices recommended~~
21 ~~by the Network Reliability and Interoperability Council in~~
22 ~~December 2005, for backup systems have been implemented by~~
23 ~~telecommunications service providers operating in California. If~~
24 ~~the commission determines it is in the public interest, the~~
25 ~~commission shall, consistent with subdivisions (c) and (d), develop~~
26 ~~and implement performance reliability standards.~~

27 ~~(c) The commission, in developing any standards pursuant to~~
28 ~~the proceeding required by subdivision (b), shall consider current~~
29 ~~best practices and technical feasibility for establishing battery~~
30 ~~backup requirements.~~

31 ~~(d) The commission shall not implement standards pursuant to~~
32 ~~the proceeding required by subdivision (b) unless it determines~~
33 ~~that the benefits of the standards exceed the costs.~~

34 ~~(e) The commission shall determine the feasibility of the use of~~
35 ~~zero greenhouse gas emission fuel cell systems to replace diesel~~
36 ~~backup power systems.~~

37 ~~(f) Before March 31, 2008, the commission shall prepare and~~
38 ~~submit to the Legislature a report on the results of the proceeding.~~

39 SEC. 31. ~~Section 3302 of the Public Utilities Code is amended~~
40 ~~to read:~~

1 3302. ~~As used in this division, unless the context otherwise~~
2 ~~requires, the following terms have the following meanings:~~
3 (a) ~~“Act” means the California Consumer Power and~~
4 ~~Conservation Financing Authority Act.~~
5 (b) ~~“Authority” means the California Consumer Power and~~
6 ~~Conservation Financing Authority established pursuant to Section~~
7 ~~3320 and any board, commission, department, or officer succeeding~~
8 ~~to the functions thereof, or to whom the powers conferred upon~~
9 ~~the authority by this division shall be given by law.~~
10 (c) ~~“Board” means the Board of Directors of the California~~
11 ~~Consumer Power and Conservation Financing Authority.~~
12 (d) ~~“Bond purchase agreement” means a contractual agreement~~
13 ~~executed between the authority and an underwriter or underwriters~~
14 ~~and, where appropriate, a participating party, whereby the authority~~
15 ~~agrees to sell bonds issued pursuant to this division.~~
16 (e) ~~“Bonds” means bonds, including structured, senior, and~~
17 ~~subordinated bonds or other securities; loans; notes, including~~
18 ~~bond revenue or grant anticipation notes; certificates of~~
19 ~~indebtedness; commercial paper; floating rate and variable maturity~~
20 ~~securities; and any other evidences of indebtedness or ownership,~~
21 ~~including certificates of participation or beneficial interest, asset~~
22 ~~backed certificates, or lease-purchase or installment purchase~~
23 ~~agreements, whether taxable or excludable from gross income for~~
24 ~~state and federal income taxation purposes.~~
25 (f) ~~“Cost,” as applied to a program, project or portion thereof~~
26 ~~financed under this division, means all or any part of the cost of~~
27 ~~construction, improvement, repair, reconstruction, renovation, and~~
28 ~~acquisition of all lands, structures, improved or unimproved real~~
29 ~~or personal property, rights, rights-of-way, franchises, licenses,~~
30 ~~easements, and interests acquired or used for a project; the cost of~~
31 ~~demolishing or removing or relocating any buildings or structures~~
32 ~~on land so acquired, including the cost of acquiring any lands to~~
33 ~~which the buildings or structures may be moved; the cost of all~~
34 ~~machinery and equipment; financing charges; the costs of any~~
35 ~~environmental mitigation; the costs of issuance of bonds or other~~
36 ~~indebtedness; interest prior to, during, and for a period after,~~
37 ~~completion of the project, as determined by the authority;~~
38 ~~provisions for working capital; reserves for principal and interest;~~
39 ~~reserves for reduction of costs for loans or other financial~~
40 ~~assistance; reserves for maintenance, extension, enlargements,~~

1 additions, replacements, renovations, and improvements; and the
2 cost of architectural, engineering, financial, appraisal, and legal
3 services, plans, specifications, estimates, administrative expenses,
4 and other expenses necessary or incidental to determining the
5 feasibility of any project, enterprise, or program or incidental to
6 the completion or financing of any project or program.

7 (g) “Enterprise” means a revenue-producing improvement,
8 building, system, plant, works, facilities, or undertaking used for
9 or useful for the generation or production of electric energy for
10 lighting, heating, and power for public or private uses. Enterprise
11 includes, but is not limited to, all parts of the enterprise, all
12 appurtenances to it, lands, easements, rights in land, water rights,
13 contract rights, franchises, buildings, structures, improvements,
14 equipment, and facilities appurtenant or relating to the enterprise.

15 (h) “Financial assistance” in connection with a project, enterprise
16 or program, includes, but is not limited to, any combination of
17 grants, loans, the proceeds of bonds issued by the authority,
18 insurance, guarantees or other credit enhancements or liquidity
19 facilities, and contributions of money, property, labor, or other
20 things of value, as may be approved by resolution of the board;
21 the purchase or retention of authority bonds, the bonds of a
22 participating party for their retention or for sale by the authority,
23 or the issuance of authority bonds or the bonds of a special purpose
24 trust used to fund the cost of a project or program for which a
25 participating party is directly or indirectly liable, including, but
26 not limited to, bonds, the security for which is provided in whole
27 or in part pursuant to the powers granted by this division; bonds
28 for which the authority has provided a guarantee or enhancement;
29 or any other type of assistance determined to be appropriate by
30 the authority.

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

33 (j) “Loan agreement” means a contractual agreement executed
34 between the authority and a participating party that provides that
35 the authority will loan funds to the participating party and that the
36 participating party will repay the principal and pay the interest and
37 redemption premium, if any, on the loan.

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

39 (1) Any person, company, corporation, partnership, firm,
40 federally recognized California Indian tribe, or other entity or

1 group of entities, whether organized for profit or not for profit,
2 engaged in business or operations within the state and that applies
3 for financial assistance from the authority for the purpose of
4 implementing a project or program in a manner prescribed by the
5 authority.

6 ~~(2) Any subdivision of the state or local government, including,~~
7 ~~but not limited to, departments, agencies, commissions, cities,~~
8 ~~counties, nonprofit corporations, special districts, assessment~~
9 ~~districts, and joint powers authorities within the state or any~~
10 ~~combination of these subdivisions, that has, or proposes to acquire,~~
11 ~~an interest in a project, or that operates or proposes to operate a~~
12 ~~program under Section 3365, and that makes application to the~~
13 ~~authority for financial assistance in a manner prescribed by the~~
14 ~~authority.~~

15 ~~(l) “Program” means a program that provides financial~~
16 ~~assistance, as provided in Article 6 (commencing with Section~~
17 ~~3365).~~

18 ~~(m) “Project” means plants, facilities, equipment, appliances,~~
19 ~~structures, expansions, and improvements within the state that~~
20 ~~serve the purposes of this division as approved by the authority,~~
21 ~~and all activities and expenses necessary to initiate and complete~~
22 ~~those projects described in Article 5 (commencing with Section~~
23 ~~3350) and Article 7 (commencing with Section 3368), of Chapter~~
24 ~~3.~~

25 ~~(n) “Revenues” means all receipts, purchase payments, loan~~
26 ~~repayments, lease payments, rents, fees and charges, and all other~~
27 ~~income or receipts derived by the authority from an enterprise, or~~
28 ~~by the authority or a participating party from any other financing~~
29 ~~arrangement undertaken by the authority or a participating party,~~
30 ~~including, but not limited to, all receipts from a bond purchase~~
31 ~~agreement, and any income or revenue derived from the investment~~
32 ~~of any money in any fund or account of the authority or a~~
33 ~~participating party.~~

34 ~~(o) “State” means the State of California.~~

35 ~~SEC. 32. Section 7000 of the Public Utilities Code is amended~~
36 ~~to read:~~

37 ~~7000. (a) For purposes of this chapter, a utility shall mean all~~
38 ~~of the following:~~

39 ~~(1) An electric corporation.~~

40 ~~(2) A water corporation.~~

- 1 ~~(3) A telephone corporation.~~
 2 ~~(4) A telecommunications carrier, as defined in Section 153 of~~
 3 ~~Title 47 of the United States Code.~~
 4 ~~(5) A gas corporation.~~
 5 ~~(6) A local publicly owned electric utility and a publicly owned~~
 6 ~~gas utility.~~
 7 ~~(7) A special district that owns or operates utilities.~~
 8 ~~(b) This chapter shall also apply to the following entities:~~
 9 ~~(1) A cable television corporation.~~
 10 ~~(2) A cable operator, as defined in Section 522 of Title 47 of~~
 11 ~~the United States Code.~~
 12 ~~SEC. 33.— Section 8340 of the Public Utilities Code is amended~~
 13 ~~to read:~~
 14 ~~8340. For purposes of this chapter, the following terms have~~
 15 ~~the following meanings:~~
 16 ~~(a) “Baseload generation” means electricity generation from a~~
 17 ~~powerplant that is designed and intended to provide electricity at~~
 18 ~~an annualized plant capacity factor of at least 60 percent.~~
 19 ~~(b) “Combined-cycle natural gas” with respect to a powerplant~~
 20 ~~means the powerplant employs a combination of one or more gas~~
 21 ~~turbines and steam turbines in which electricity is produced in the~~
 22 ~~steam turbine from otherwise lost waste heat exiting from one or~~
 23 ~~more of the gas turbines.~~
 24 ~~(c) “Electric service provider” means an “electric service~~
 25 ~~provider” as defined in Section 218.3, but does not include~~
 26 ~~corporations or persons employing cogeneration technology or~~
 27 ~~producing electricity from other than a conventional power source~~
 28 ~~consistent with subdivision (b) of Section 218.~~
 29 ~~(d) “Greenhouse gases” means those gases listed in subdivision~~
 30 ~~(h) of Section 42801.1 of the Health and Safety Code.~~
 31 ~~(e) “Load-serving entity” means every electrical corporation,~~
 32 ~~electric service provider, or community choice aggregator serving~~
 33 ~~end-use customers in the state.~~
 34 ~~(f) “Long-term financial commitment” means either a new~~
 35 ~~ownership investment in baseload generation or a new or renewed~~
 36 ~~contract with a term of five or more years, which includes~~
 37 ~~procurement of baseload generation.~~
 38 ~~(g) “Output-based methodology” means a greenhouse gases~~
 39 ~~emission performance standard that is expressed in pounds of~~
 40 ~~greenhouse gases emitted per megawatthour and factoring in the~~

1 ~~useful thermal energy employed for purposes other than the~~
2 ~~generation of electricity.~~

3 (h) ~~“Plant capacity factor” means the ratio of the electricity~~
4 ~~produced during a given time period, measured in kilowatthours,~~
5 ~~to the electricity the unit could have produced if it had been~~
6 ~~operated at its rated capacity during that period, expressed in~~
7 ~~kilowatthours.~~

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

10 (j) ~~“Zero- or low-carbon generating resource” means an~~
11 ~~electrical generating resource that will generate electricity while~~
12 ~~producing emissions of greenhouse gases at a rate substantially~~
13 ~~below the greenhouse gas emission performance standard, as~~
14 ~~determined by the commission.~~

15 SEC. 34. ~~Section 9604 of the Public Utilities Code is amended~~
16 ~~to read:~~

17 9604. ~~For purposes of this division, the following definitions~~
18 ~~apply:~~

19 (a) ~~“Direct transaction” means a contract between one or more~~
20 ~~electric generators, marketers, or brokers, public or private, of~~
21 ~~electric power and one or more retail customers providing for the~~
22 ~~purchase and sale of electric power and ancillary services.~~

23 (b) ~~“Service area” means an area in which, as of December 20,~~
24 ~~1995, an investor-owned electric utility or a local publicly owned~~
25 ~~electric utility was obligated to provide service.~~

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

32 SEC. 35. ~~Section 20.5 of this bill incorporates amendments to~~
33 ~~Section 399.12 of the Public Utilities Code proposed by this bill~~
34 ~~and AB 809. It shall only become operative if (1) both bills are~~
35 ~~enacted and become effective on or before January 1, 2007, (2)~~
36 ~~each bill amends Section 399.12 of the Public Utilities Code, and~~
37 ~~(3) this bill is enacted after AB 809, in which case Section 20 of~~
38 ~~this bill shall not become operative.~~

O