

## Assembly Bill No. 2037

### CHAPTER 422

An act to add Chapter 3.5 (commencing with Section 8350) to Division 4.1 of the Public Utilities Code, relating to electricity.

[Approved by Governor September 28, 2010. Filed with  
Secretary of State September 28, 2010.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2037, V. Manuel Pérez. Electricity: air pollution.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. The existing Public Utilities Act requires the PUC to review and approve, modify, or reject a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. Existing law prohibits any load-serving entity, and any local publicly owned electric utility, from entering into a long-term financial commitment for baseload generation, unless that baseload generation complies with a greenhouse gases emission performance standard. Existing law requires the PUC, by February 1, 2007, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission) and the State Air Resources Board (state board), to establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities. Existing law requires the Energy Commission, by June 30, 2007, at a duly noticed public hearing and in consultation with the PUC and the state board, to establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities, as defined.

This bill would prohibit a load-serving entity or local publicly owned electric utility from entering into, and would prohibit the PUC from approving for an electrical corporation, a long-term financial commitment with or for a new electrical generation facility constructed in California, or in a shared pollution area, as defined, that does not meet specified air pollution criteria.

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

SECTION 1. Chapter 3.5 (commencing with Section 8350) is added to Division 4.1 of the Public Utilities Code, to read:

CHAPTER 3.5. AIR POLLUTION PERFORMANCE STANDARD FOR NEW  
GENERATION

8350. (a) For purposes of this section, the following terms have the following meanings:

(1) “Load-serving entity” has the same meaning as that term is defined in Section 8340.

(2) “Long-term financial commitment” has the same meaning as that term is defined in Section 8340.

(3) “New electrical generating facility” means an electrical generating unit for which all legally required permits have been received after January 1, 2011. If an electrical generating unit is added to an existing powerplant after January 1, 2011, only the incremental capacity from that unit added after January 1, 2011, is a new electrical generating facility.

(4) “Shared pollution area” means an airshed encompassing a portion of California and a portion of an adjacent state or country, as determined by the United States Environmental Protection Agency.

(b) A load-serving entity or local publicly owned electric utility shall not enter into, and the commission shall not approve for an electrical corporation, a long-term financial commitment with or for a new electrical generating facility constructed in California or in a shared pollution area if that facility does not meet the following requirements:

(1) If the new electrical generating facility is in California, the facility meets best available control technology (BACT) standards, to control air pollution emissions from the operation of the facility, and complies with air pollution control district or air quality management district rules and regulations, and state and federal law.

(2) If the new electrical generating facility is outside of California in a shared pollution area, the facility meets best available control technology (BACT) standards, to control air pollution emissions from the operation of the facility, that apply in the air basin in California adjacent to the facility.