AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN SENATE MARCH 24, 2009

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AMENDED IN SENATE FEBRUARY 17, 2009

AMENDED IN SENATE JANUARY 29, 2009

SENATE BILL No. 14

Introduced by Senators Simitian, Kehoe, Padilla, and Steinberg (Coauthors: Senators Alquist, DeSaulnier, Leno, Lowenthal, Romero, Strickland, and Wiggins)

December 1, 2008

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, ~~25741,~~ *25740.5, 25741, 25742,* 25746, 25747, and 25751 of~~, and to add Section 25524 to,~~ the Public Resources Code, *and* to amend Sections *399.2.5,* 399.11, 399.12, ~~399.15,~~ 399.17, and 454.5 of, to amend and renumber Sections ~~399.13, 399.14, 399.16, and 747 of, to add Sections 399.14, 399.16,~~ *399.16 and 747 of, to amend, renumber, and add Section 399.13 of, to add Sections 399.18,* 399.22, 399.26, ~~399.27,~~ 399.30, 399.31, 911, *and* 1005.1 to, to add the heading of Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, ~~and~~ to repeal Section 387 of, *and to repeal and add Sections 399.14 and 399.15 of,* the Public Utilities Code, relating to ~~utilities~~ *energy, and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as amended, Simitian. Utilities: Renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical

corporations, as defined. Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

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

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010, and 33% by December 31, 2020. *The bill would revise certain eligibility criteria for an instate renewable electricity generation facility pursuant to the program.*

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010.

This bill would express the additional intent that the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020.

(3) The Public Utilities Act imposes various duties and responsibilities on the PUC with respect to the purchase of electricity and requires the PUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation, as defined, pursuant to the RPS program. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. *Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, to an amount collected through the renewable energy public goods charge.*

This bill would ~~additionally require, once the retail seller reaches the 20% renewables target, that the PUC implement triennial procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 3% every three years so that 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020, if the commission determines that achieving these targets will result in just and reasonable rates~~ *instead require the PUC to require that a retail seller procure the following percentages of electricity from eligible renewable energy resources by the following times: (A) 20% by December 31, 2012; (B) 23% by December 31, 2014; (C) 26% by December 31, 2016; (D) 30% by December 31, 2018; and (E) 33% by December 31, 2020. The bill would authorize the PUC to permit a retail seller to delay compliance with (A), (B), (C), and (D)* *procurement levels when specified circumstances are present, but would not authorize the PUC to permit a retail seller to delay compliance with the (E) procurement level. The bill would delete the existing market price referent provisions and instead require the PUC to establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of, and reflecting, certain matters. The bill would require the PUC to establish a limitation on the annual expenditures made above the market price, by an electrical corporation, in order to achieve the procurement levels established by the PUC. The bill would require the PUC to permit an electrical corporation to limit its procurement of electricity from eligible renewable energy resources to that quantity that can be procured at or below the market prices established by the PUC, up to the limitation. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers and would instead require the PUC to adopt rules permitting retail sellers to apply excess procurement in one year to subsequent years*.

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

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

(4) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would repeal this provision and instead make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

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

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations for the enforcement of the RPS program with respect to a local publicly owned electric utility, would require, by October 30, 2010, at a noticed public meeting and in consultation with the State Air Resources Board, to establish an RPS requiring each local publicly owned electric utility to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to the utility's retail end-use customers each calendar year. The bill would require that the RPS established for a local publicly owned electric utility be consistent with certain targets and purposes that are applicable to retail sellers. The bill would require the utility to adopt and implement a renewable energy resources procurement plan that, at a minimum, complies with the RPS adopted for the utility by the Energy Commission, would provide that the utility retains discretion with respect to certain ~~matter~~ *matters* in complying with the RPS, would require that certain notices be given by the utility when adopting and periodically revising its procurement plan, and would require the utility to report certain information relative to RPS compliance to the Energy Commission and its customers. The bill would require the Energy Commission, in order to meet the requirements of the RPS program, undertake certain measures in order to substantially increase the amounts of electricity generated by eligible renewable energy resources integrated with and interconnected to specified transmission grids.

(6) Existing law requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will, in order to fulfill its unmet resource needs, until a 20% renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1% per year of the electricity sold by the electrical corporation is generated from eligible renewable energy resources, provided sufficient funds are made available to cover the above-market costs for new renewable energy resources pursuant to certain provisions of the Renewable Energy Resources Program. ~~Existing law requires the PUC to make a determination of the existing market cost for electricity (market price referent).~~

This bill would require that ~~the PUC enforce these requirements until the retail seller procures 20% of its retail sales from eligible renewable energy resources. Once the 20% requirement is met, the bill would require that~~ an electrical corporation's proposed procurement plan include a showing that the electrical corporation will, in order to fulfill its unmet resource needs, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the RPS program.

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

The bill would require the PUC to prepare and submit to the policy and fiscal committees of the Legislature, annually before February 1 of each year, a report on (a) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (b) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (c) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (d) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (e) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (f) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, and (g) any changes in the prior year in load serviced by an electrical corporation.

(8) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are

necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to approve an application for a certificate of public convenience and necessity within one year of the filing of a completed application under specified circumstances and would authorize the PUC, if it finds the costs are justified pursuant to the statutory requirements for approving a rate increase, to allow recovery of certain transmission costs incurred by an electrical corporation.

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

This bill would require the ISO to undertake all feasible efforts to do certain things and seek the approval of the FERC, if necessary, including adjusting its market structure to achieve, in the most cost-effective manner possible, the increased amount of electricity to be generated by eligible renewable energy resources. The bill would require the PUC to approve reasonable and cost-effective transmission and power line investments that are not under the ratemaking authority of the FERC that are necessary to enable electricity generated by eligible renewable energy resources to be delivered to retail sellers and local publicly owned electric utilities.

~~(10) This bill would require the PUC, Energy Commission, and ISO to consider the recommendations of the Renewable Energy Transmission Initiative in their respective responsibilities relative to the siting of transmission and eligible renewable energy resources that are necessary to achieve the renewables portfolio standard.~~

~~(11)~~

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

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

~~(12)~~

(11) Existing law grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Existing law prohibits the construction of any thermal powerplant or facilities appurtenant thereto or modification of any existing thermal powerplant and appurtenant facility without first obtaining certification from the Energy Commission. Each person proposing to construct a thermal powerplant or electric transmission line on a site is required to submit an application to the Energy Commission. The Energy Commission is required to prescribe the form and content of applications for facilities and to formally act to approve or disapprove applications, including specifying conditions under which approval and continuing operation of any facility is permitted.

This bill would require the Energy Commission to develop a concurrent application review process with the Department of Fish and Game for eligible renewable energy resources with the goal of reducing the time required to complete certification and compliance with the California Environmental Quality Act for eligible renewable energy resources that are within a competitive renewable energy zone.

~~(13)~~

(12) This bill would *appropriate $322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard and would* state the intent of the Legislature to appropriate ~~$3,700,000 from the Public Interest Research, Development, and Demonstration Fund~~ *additional moneys* to the Energy Commission ~~for contracts and for interagency agreements with the~~ *and* Department of Fish and Game ~~or other wildlife agencies for the preparation of one or more natural communities conservation plans in the Mojave and Colorado Desert regions for the purposes of facilitating the development of solar energy in those regions~~ *for other specified purposes.*

~~(14)~~

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

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

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

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

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

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

(c) The internal division shall ensure the timely completion of plans pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3), that embody the balancing of project assurances with ecosystem protections.

~~SEC. 2. Section 25524 is added to the Public Resources Code, to read:~~

~~25524. (a) For purposes of this section, “eligible renewable energy resources” has the same meaning as in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).~~

~~(b) The commission shall develop a concurrent application review process with the Department of Fish and Game for eligible renewable energy resources with the goal of reducing the time required to complete certification and compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) for eligible renewable energy resources that~~

~~are within a competitive renewable energy zone. Nothing in this section effects the requirements of the California Environmental Quality Act.~~

~~SEC. 3.~~

SEC. 2. Section 25740 of the Public Resources Code is amended to read:

25740. The Legislature finds and declares that the State Air Resources Board has identified a statewide 33 percent renewables portfolio standard as a key measure to comply with the requirements of the California Global Warming Solutions Act of 2006. It is the intent of the Legislature in establishing this program, to increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 20 percent of total retail sales of electricity in California per year by December 31, 2010, and 33 percent by December 31, 2020.

SEC. 3. Section 25740.5 of the Public Resources Code is amended to read:

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

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

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

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

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

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

(2) Customer education.

(3) Production incentives for reducing fuel costs, that are confirmed to the satisfaction of the commission, at solid fuel

biomass energy facilities in order to provide demonstrable environmental and public benefits, including improved air quality.

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

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

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

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

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

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

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

SEC. 4. Section 25741 of the Public Resources Code is amended to read:

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

(a) “Delivered” and ~~“delivery” mean the electricity output of an in-state renewable electricity generation facility that~~ *“delivery,”* *with respect to electricity generated by a renewable electrical generation facility, means that the electricity* is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or generated at a location outside the state and scheduled for simultaneous consumption by California end-use retail customers. *For these purposes, simultaneous consumption results from the physical delivery of electricity generated by the renewable electrical generation facility that is scheduled for transmission to customers served by a balancing authority primarily located in this state at the same time that the electricity is generated. Simultaneous consumption occurs if a renewable electrical generation facility has its first point of interconnection within a transmission network controlled by a balancing authority primarily located within this state. Electricity is not scheduled for simultaneous consumption to the extent that the physical delivery of electricity to customers is from the purchase or supply of electricity from a source other than the renewable electrical generation facility or if the electricity is scheduled for delivery to customers at a time different from the time of generation.*

(b) "Procurement entity" means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (f) of Section 399.14 of the Public Utilities Code.

~~(b) "In-state renewable electricity~~

(c) "Renewable electrical generation facility" means a facility that meets all of the following criteria:

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

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

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

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

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

(ii) It commences initial commercial operation after January 1, ~~2005~~ *2010*.

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

~~(iv)~~

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

~~(v)~~

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

~~(vi)~~

(v) It participates in the accounting system to verify compliance with the renewables portfolio standard once established by the commission pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (i), (iii), (iv), ~~(v), and (vi)~~ *and (v)* of subparagraph (B), but does not meet the requirements of clause (ii) of subparagraph (B) because it commenced initial operation prior to January 1, ~~2005~~ *2010*, if the facility satisfies either of the following requirements:

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

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

(ii) The electricity generated by the facility was sold to a retail seller or local publicly owned electric utility as of May 31, 2009.

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

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

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

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

(D) The technology produces no hazardous wastes.

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

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

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

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

~~(c) "Procurement entity" means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (f) of Section 399.13 of the Public Utilities Code.~~

(d) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(e) "Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication

Number P500-00-022) submitted to the Governor and the Legislature by the commission.

(f) "Retail seller" means a "retail seller" as defined in Section 399.12 of the Public Utilities Code.

SEC. 5. Section 25742 of the Public Resources Code is amended to read:

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

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

(c) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities shall not receive payments for any electricity produced that has any of the following characteristics:

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

(2) Is used onsite.

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

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

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

~~SEC. 5.~~

SEC. 6. Section 25746 of the Public Resources Code is amended to read:

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

(b) If the commission provides funding for a regional accounting system to verify compliance with the renewable portfolio standard by retail sellers, pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code, the commission shall recover all costs from user fees.

~~SEC. 6.~~

SEC. 7. Section 25747 of the Public Resources Code is amended to read:

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

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

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

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

~~SEC. 7.~~

SEC. 8. Section 25751 of the Public Resources Code is amended to read:

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

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

(1) Existing Renewable Resources Account.

(2) Emerging Renewable Resources Account.

(3) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended, only upon appropriation by the Legislature in the annual Budget Act, for the following purposes:

(1) The administration of this article by the state.

(2) The state's expenditures associated with the accounting system established by the commission pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code.

(d) That portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 25740.5. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

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

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

~~SEC. 8.~~

SEC. 9. Section 387 of the Public Utilities Code is repealed.

SEC. 10. Section 399.2.5 of the Public Utilities Code is amended to read:

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

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

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

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

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

(4) ~~Allowing~~ *Providing assurance, prior to a determination of rate recovery by the Federal Energy Regulatory Commission (FERC) of those costs that are subject to FERC jurisdiction, of* recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of the transmission facilities ~~that are not~~ *to the extent these costs are not subsequently* approved for recovery in transmission rates by the ~~Federal Energy Regulatory Commission~~ *FERC*, after the

commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.

(5) Allowing recovery in retail rates of any increase in transmission costs if the FERC does not approve recovery of those costs in the rates that are subject to FERC jurisdiction after the commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.

(c) (1) The commission shall approve an advice letter seeking assurance of cost recovery pursuant to paragraph (4) of subdivision (b), if either of the following are true:

(A) The new transmission line or facility will primarily deliver electricity generated within a competitive renewable energy zone identified in the public collaborative stakeholder planning process known as the Renewable Energy Transmission Initiative (RETI) and is consistent with a transmission project that the RETI process has determined can be approved, financed, and built to provide electricity generated by eligible renewable energy resources to retail customers in the most cost-competitive and least environmentally harmful ways.

(B) The new transmission line or facility is needed to deliver electricity to load that is to be generated by generation facilities for which the electrical corporation has received interconnection requests if not less that 50 percent of the capacity is for delivery of electricity generated by eligible renewable energy resources and all of the interconnection requests are for generation facilities that are designed to comply with the greenhouse gases emission performance standard established by the commission pursuant to Chapter 3 (commencing with Section 8340) of Division 4.1.

(2) Approval of an advice letter pursuant to paragraph (1) is not binding upon the commission in making its determination whether or not to approve an application for a certificate of public convenience and necessity pursuant to Chapter 5 (commencing with Section 1001).

~~SEC. 9.~~

SEC. 11. Section 399.11 of the Public Utilities Code is amended to read:

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

(a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, and 33 percent by

December 31, 2020, and for the purposes of increasing the diversity, reliability, public health, and environmental benefits of the energy mix, reducing emissions of greenhouse gases, and promoting economic development it is the intent of the Legislature that the commission and the Energy Commission implement the California Renewables Portfolio Standard Program described in this article.

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

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

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the Energy Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities will be necessary to facilitate the state achieving its renewables portfolio standard targets.

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

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

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

(b) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(c) "Eligible renewable energy resource" means an ~~electric~~ *electrical* generating facility that meets the definition of ~~"in-state~~

~~renewable electricity~~ *a "renewable electrical* generation facility" in Section 25741 of the Public Resources Code, *and the electricity generated by the facility is delivered to a retail seller or local publicly owned electric utility, or the facility produces renewable energy credits or undelivered renewable energy credits,* subject to the following:

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

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

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

(d) "Procure" means ~~that a retail seller or local publicly owned electric utility receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement~~ *to purchase or own the eligible renewable energy resource*. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article or the obligation of a local publicly owned electric utility to meet its renewables portfolio standard implemented pursuant to Section 399.30.

(e) (1) "Renewable energy credit" means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, issued through the accounting system established by the Energy Commission pursuant to Section 399.25, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

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

(3) *(A)* No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the Energy Commission *for each renewable energy technology*, shall result in the creation of a renewable energy credit.

(B) No electricity generated by a small hydroelectric generation facility shall result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (A) of paragraph (1) of subdivision (c).

(C) No electricity generated by a conduit hydroelectric generation facility shall result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (B) of paragraph (1) of subdivision (c).

(D) No electricity generated by a facility engaged in the combustion of municipal solid waste shall result in the creation of a renewable energy credit unless the facility meets the requirements of paragraph (2) of subdivision (c).

(f) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1, for an electrical corporation, and pursuant to Section 385 for a local publicly owned electric utility.

(g) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.

(h) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

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

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

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

(4) "Retail seller" does not include any of the following:

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

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

(C) A local publicly owned electric utility.

(i) (1) "Undelivered renewable energy credit" means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.25, associated with one unit of electricity generated, but not delivered, by a renewable electrical generation facility.

(2) (A) No electricity generated by a renewable electrical generation facility attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the Energy Commission for each renewable energy technology, shall result in the creation of an undelivered renewable energy credit.

(B) No electricity generated by a small hydroelectric generation facility shall result in the creation of an undelivered renewable energy credit unless the facility meets the requirements of subparagraph (A) of paragraph (1) of subdivision (c).

(C) No electricity generated by a conduit hydroelectric generation facility shall result in the creation of an undelivered renewable energy credit unless the facility meets the requirements of subparagraph (B) of paragraph (1) of subdivision (c).

(D) No electricity generated by a facility engaged in the combustion of municipal solid waste shall result in the creation of an undelivered renewable energy credit unless the facility meets the requirements of paragraph (2) of subdivision (c).

~~SEC. 11.~~

SEC. 12. Section 399.13 of the Public Utilities Code is amended and renumbered to read:

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

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (c) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers and local publicly owned electric utilities, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers and local publicly owned electric utilities, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

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

(d) Certify, for purposes of compliance with the renewables portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that all of the conditions of Section 399.31 have been met.

(e) In consultation with the State Air Resources Board, adopt regulations for the enforcement of this article with respect to a local publicly owned electric utility. The regulations shall be adopted at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' notice shall be given to the public of any meeting held for purposes of adopting the regulations. Not less than 10 days' notice shall be given to the public before any meeting is held to make a substantive change to the regulations. Until such time as there is a market mechanism established and implemented for the distribution and purchase of emission allowances for greenhouse gases, the regulations shall provide for the imposition of penalties by the State Air Resources Board pursuant to Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code, upon referral and recommendation by the Energy Commission, for failure to comply with this article.

(f) (1) By October 30, 2010, at a duly noticed public meeting and in consultation with the State Air Resources Board, establish a renewables portfolio standard requiring each local publicly owned electric utility to procure a minimum quantity of electricity generated by eligible renewable energy resources, including renewable energy credits, as a specified percentage of total kilowatthours sold to the utility's retail end-use customers each calendar year. The renewables portfolio standard shall be consistent with the target of generating 33 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2020, and the purposes set forth in subdivisions (a), (b), and (c) of Section 399.11. The Energy Commission shall enforce the renewables portfolio standard upon its establishment.

(2) A local publicly owned electric utility shall retain discretion over the percentage of eligible renewable energy resources procured or owned by the utility and those additional generation resources procured or owned by the utility for purposes of ensuring

resource adequacy and reliability and the prices paid by the utility for electricity generated by eligible renewable energy resources.

~~SEC. 12. Section 399.14 of the Public Utilities Code is amended and renumbered to read:~~

~~399.13. (a) (1) The commission shall direct each electrical corporation to prepare a renewable energy procurement plan that includes the matter in paragraph (3), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.~~

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

~~(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources.~~

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

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

~~(ii) The flexible rules for compliance shall address situations where, as a result of insufficient transmission, a retail seller is unable to procure eligible renewable energy resources sufficient to satisfy the requirements of this article. Any rules addressing insufficient transmission shall require a finding by the commission~~

~~that the retail seller has undertaken all reasonable efforts to do all of the following:~~

~~(I) Utilize flexible delivery points.~~

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

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

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

~~(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.~~

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

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

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

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

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

~~(5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to~~

~~projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.~~

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

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

~~(d) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.~~

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

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

~~(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and~~

~~are directly benefiting from the procurement of eligible renewable energy resources.~~

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

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

~~(i) The commission shall enforce the requirements of this section until the electrical corporation procures 20 percent of its retail sales from eligible renewable energy resources. Upon determining that the electrical corporation is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of Section 399.14 with respect to that electrical corporation.~~

SEC. 13. Section ~~399.14~~ *399.13* is added to the Public Utilities Code, to read:

~~399.14.~~

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

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

(A) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This ~~process shall consider estimates of indirect costs associated with~~

~~needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources. This process shall also consider, but shall not be limited to, the cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio, system reliability, and the environmental and economic benefits of procuring renewable energy.~~

~~(B) Flexible rules for compliance. The flexible rules for compliance shall apply to all years, including years before and after a retail seller procures at least 20 percent by 2010, and 33 percent by 2020, of total retail sales of electricity from eligible renewable energy resources.~~ *process shall also consider the viability of the project to construct and reliably operate the eligible renewable energy resource, including the developer's experience, the feasibility of the technology used to generate electricity, and the risk that the facility will not be built, or that construction will be delayed, with the result that electricity will not be delivered as required by the contract.*

(B) Rules permitting retail sellers to apply excess procurement in one year to subsequent years.

(C) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(D) An appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard, applied equally to all retail sellers, to mitigate the risk that renewable projects planned or under contract are delayed or canceled. Nothing in this paragraph shall preclude an electrical corporation from voluntarily proposing a margin of procurement above the appropriate minimum margin established by the commission.

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

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity. ~~This assessment shall be consistent with the electrical corporation's long-term portfolio planning conducted pursuant to Section 454.5 and shall consider the electrical corporation's optimal portfolio to reach the state's goals for reducing emissions of greenhouse gases. Consistent with an electrical corporation's long-term portfolio planning, the commission may require analyses, including, but not limited to, the rate impact, effects on system reliability, and the environmental and economic benefits of the proposed procurement.~~

~~(B) Strategies for employing available compliance flexibility mechanisms established by the commission.~~

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

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

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

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

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

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

(5) ~~(A)~~ In soliciting and procuring eligible renewable energy resources for California-based projects, each electrical corporation shall give preference to renewable energy projects that provide

environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

~~(B) The commission shall report to the Legislature by January 1 of every even-numbered year on the progress and status of procurement activities, the identification of barriers, and policy recommendations for achieving the goals set forth in this paragraph.~~

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

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

~~(d) (1) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the~~

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

~~(2) The commission shall establish project development milestones to evaluate the potential for compliance with the adopted renewable procurement plan and a set of actions that will occur as a result of not meeting those milestones. These actions may include, but shall not be limited to, determining a cure period for failure to meet milestones, a suspense period on the contract online date for events beyond the developer's control that cause a~~

~~failure to meet milestones, allow other developers that are prepared to go forward to move ahead of suspended contracts, and forfeiture of deposits.~~

~~(e) The commission, in consultation with the State Air Resources Board, shall adopt rules for the enforcement of this article with respect to retail sellers. The rules shall be adopted at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' notice shall be given to the public of any meeting held for purposes of adopting the rules. Not less than 10 days' notice shall be given to the public before any meeting is held to make a substantive change to the rules. The rules shall provide for the imposition of penalties by the State Air Resources Board pursuant to Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code, upon referral and recommendation by the commission, for failure to comply with this article. Nothing in this subdivision precludes the imposition of any other penalties under any other provision of law.~~

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

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for deliveries of eligible renewable energy resources to satisfy ~~triennial~~ *the retail seller's* renewables portfolio standard ~~obligations~~ *procurement requirements*. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

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

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

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

~~(i) The commission shall not enforce the requirements of this section until the electrical corporation procures 20 percent of its retail sales from eligible renewable energy resources. Upon determining that the electrical corporation is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of this section with respect to that electrical corporation.~~

~~SEC. 14. Section 399.15 of the Public Utilities Code is amended to read:~~

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

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

~~(1) Each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010, and 33 percent no later than December 31, 2020, if the commission determines that achieving these targets will result in just and reasonable rates. A retail seller with 33 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources in the following year.~~

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

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

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

~~(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of the following:~~

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

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

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

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

~~(1) The cost limitation shall be equal to the amount of funds transferred to each electrical corporation by the Energy Commission pursuant to subdivision (b) of Section 25743 of the Public Resources Code and the 51.5 percent of the funds which would have been collected through January 1, 2012, from the~~

~~customers of the electrical corporation based on the renewable energy public goods charge in effect as of January 1, 2007.~~

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

~~(A) The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision (d) of Section 399.13 or 399.14.~~

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

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

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

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

~~(3) If the cost limitation for an electrical corporation is insufficient to support the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources satisfying the conditions of paragraph (2), the commission shall allow the electrical corporation to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c).~~

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

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

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

~~(g) The commission shall enforce the requirements of this section until the retail seller procures 20 percent of its retail sales~~

~~from eligible renewable energy resources. Upon determining that the retail seller is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of Section 399.16 with respect to that retail seller.~~

SEC. 14. Section 399.14 of the Public Utilities Code is repealed.

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

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

~~(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources.~~

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

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

~~(ii) The flexible rules for compliance shall address situations where, as a result of insufficient transmission, a retail seller is unable to procure eligible renewable energy resources sufficient~~

~~to satisfy the requirements of this article. Any rules addressing insufficient transmission shall require a finding by the commission that the retail seller has undertaken all reasonable efforts to do all of the following:~~

~~(I) Utilize flexible delivery points.~~

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

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

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

~~(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.~~

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

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

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

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

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

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

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

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

~~(d) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.~~

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

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

~~(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of~~

~~end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.~~

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

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

SEC. 15. Section 399.14 is added to the Public Utilities Code, to read:

399.14. (a) (1) An electrical corporation may, pursuant to Chapter 5 (commencing with Section 1001), and in order to meet its renewables portfolio standard procurement requirements, apply to the commission for approval to construct, own, and operate an eligible renewable energy resource.

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

(3) The commission may approve additional applications for eligible renewable energy resources once the commission has approved sufficient applications for eligible renewable energy resources for the electrical corporation that, when constructed and operating, will provide 8.25 percent of the electrical corporation's anticipated retail sales by December 31, 2020, provided that the proposed eligible renewable energy resource complies with the requirements of subdivision (b).

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

(1) The eligible renewable energy resource will be constructed and operated in compliance with other applicable laws, including environmental and safety laws.

(2) The eligible renewable energy resource utilizes a viable technology at a reasonable cost and provides comparable or superior value to ratepayers when compared to then recent or contemporaneous solicitations for generation provided by eligible renewable energy resources.

(c) In approving any application by an electrical corporation for approval to construct, own, and operate an eligible renewable energy resource, the commission shall apply traditional cost-of-service ratemaking, including reasonableness review after construction is completed.

SEC. 16. Section 399.15 of the Public Utilities Code is repealed.

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

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

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

~~(2) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each retail seller based on the actual percentage of retail sales procured from eligible~~

~~renewable energy resources in 2001, and to the extent applicable, adjusted going forward pursuant to Section 399.12.~~

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

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

~~(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of the following:~~

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

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

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

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

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

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

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

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

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

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

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

~~(3) If the cost limitation for an electrical corporation is insufficient to support the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources satisfying the conditions of paragraph (2), the commission shall allow the electrical corporation to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c).~~

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

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

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

~~SEC. 15.~~

SEC. 17. Section ~~399.16~~ *399.15* is added to the Public Utilities Code, to read:

~~399.16.~~

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each ~~calendar year~~ *compliance period* to achieve the targets established under this article.

(b) The commission shall implement ~~triennial procurement targets for each retail seller~~ *renewables portfolio standard procurement requirements* as follows:

~~(1) Each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 3 percent of retail sales every three years so that 33 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020, if the commission determines that achieving these targets will result in just and reasonable rates. A retail seller with 33 percent of retail sales~~

(1) Each retail seller shall procure the following minimum percentages of eligible renewable energy resources delivered in the following years:

(A) Twenty percent by December 31, 2012.

(B) Twenty-three percent by December 31, 2014.

(C) Twenty-six percent by December 31, 2016.

(D) Thirty percent by December 31, 2018.

(E) Thirty-three percent by December 31, 2020.

(2) A retail seller with 33 percent of its retail sales of electricity procured from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources ~~in the following three years~~, *except to the extent required to maintain a 33 percent renewables portfolio standard.* A retail seller may voluntarily increase its procurement of eligible renewable energy resources beyond the renewables portfolio standard procurement requirements.

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

(3) Only for purposes of establishing ~~these targets~~ *the renewables portfolio standard procurement requirements of paragraph (1),* the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

~~(4) If a retail seller fails to procure sufficient eligible renewable energy resources in a given year to meet any triennial target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall.~~

(4) The commission may only allow a retail seller for a maximum of two years per request to delay compliance with a renewables portfolio standard procurement requirement established pursuant to subparagraph (A), (B), (C), or (D) of paragraph (1), if it finds, after an evidentiary hearing, that the retail seller has demonstrated that either of the following conditions will prevent timely compliance:

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

(i) Whether the retail seller has undertaken all reasonable measures to develop and construct new transmission lines or upgrades to existing lines in a timely fashion.

(ii) Whether the retail seller has taken all reasonable operational measures, as verified by the ISO, to maximize deliveries of electricity from eligible renewable energy resources in advance of transmission availability.

(B) Unanticipated permitting and interconnection delays for procured eligible renewable energy resource projects. In making this finding, the commission shall consider whether the retail seller has prudently managed portfolio risks, relied on sufficient viable projects, and procured an appropriate minimum margin of procurement above the minimum procurement level necessary to

comply with the renewables portfolio standard to compensate for foreseeable delays.

(5) The commission shall require a retail seller to demonstrate, as part of an evidentiary showing made pursuant to paragraph (4), that it has taken all reasonable measures consistent with this article to procure cost-effective distributed generation and to procure undelivered renewable energy credits consistent with the restrictions in paragraph (6) of subdivision (a) of Section 399.21.

(6) The commission may not approve any request to delay a compliance obligation for which it has already granted a delay unless a retail seller presents evidence that it has identified and taken all reasonable actions under its control to pursue additional options to comply with the delayed interim procurement obligation and remove impediments that are related to its delay.

(7) The commission may not authorize any delay in achieving the 33 percent by December 31, 2020, renewables portfolio standard procurement requirement of subparagraph (E) of paragraph (1).

(8) If a retail seller fails to procure sufficient eligible renewable energy resources to comply with a renewables portfolio standard procurement requirement and fails to obtain an order from the commission authorizing a compliance delay pursuant to paragraph (4), the commission may exercise its authority pursuant to Section 2113.

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of the long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities. The methodology shall reflect all of the following:

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

(2) All current and anticipated environmental compliance costs, including mitigation of emissions of greenhouse gases and air pollution offsets associated with the operation of new generating facilities.

(d) The commission shall establish a limitation for each electrical corporation on the annual expenditures above the market prices determined in subdivision (c) for the procurement of eligible

renewable energy resources. The commission shall update the limitation on a biennial basis. The annual cost limitation shall equal 6 percent of the total bundled electric revenues recorded by the electrical corporation for the prior calendar year, or for an updated limitation, for the calendar year prior to the year in which the commission is preparing the update. Total bundled electric revenues shall include revenues collected by the electrical corporation on behalf of the Department of Water Resources for procurement activities conducted pursuant to Division 27 (commencing with Section 80000) of the Water Code. The commission shall not reduce the limitation as a result of changes in bundled electric revenues since the previous biennial update. The annual limitation, as modified by subsequent updates, shall apply to the net annual above-market costs projected to be incurred during each future year.

(e) The net annual above-market costs of all procurement of eligible renewable energy resources shall be counted toward the annual cost limitation if all of the following conditions are satisfied:

(1) The procurement has been approved by the commission.

(2) The procurement is used to meet the renewables portfolio standard procurement requirements established pursuant to paragraph (1) of subdivision (b).

(3) The procurement is submitted for approval to the commission after January 1, 2011.

(4) The above-market costs of procurement do not include any indirect expenses, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.

(5) Calculations of net annual above-market costs shall include, as a reduction to the total above-market costs, procurement that satisfies paragraphs (1), (2), and (3) and is below the market prices determined in subdivision (c) for each year.

(6) The commission has accounted for the potential that some procured resources may be delayed or canceled.

(f) If the annual cost limitation for an electrical corporation is insufficient to support the projected net above-market costs identified in subdivision (e) for a future year, the commission shall allow the electrical corporation to refrain from entering into new contracts or to construct facilities for that future year beyond the

quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c). If the cost limitation is not reached for an individual year, any amount below the cost limitation may not be applied to a future year.

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

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

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

(B) Identify those actions that can be taken to ensure that the electrical corporation continues to comply with its renewables portfolio standard procurement requirements.

(C) Notify the appropriate policy and fiscal committees of the Legislature that the electrical corporation may exceed its annual cost limitation, the reasons why the electrical corporation may exceed its annual cost limitation, and those actions that may be taken by the electrical corporation to comply with the renewables portfolio standard procurement requirements.

(3) The commission shall examine mechanisms for mitigating the potential impact of low fossil fuel prices on the annual cost limitation of each electrical corporation and make recommendations to the Legislature on any changes in law it identifies to mitigate those impacts.

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

(i) The commission shall examine and may adopt mechanisms to limit the potential influence of the market prices established in subdivision (c) on seller pricing and buyer contract selection.

~~(c)~~

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

~~(d)~~

(k) The commission shall consult with the Energy Commission in establishing renewables portfolio standard policies.

~~(e)~~

(l) An electrical corporation shall submit a contract for eligible renewable energy resources to the commission for review, pursuant to the electrical corporation's approved renewable energy procurement plan.

(1) In conducting a review, the commission shall do all of the following:

(A) Consider system reliability.

(B) Consider the value of different generation characteristics including peaking, dispatchable, baseload, and firm and as-available capacity of renewable projects.

(C) Make an assessment of the price risk associated with the electrical corporation's renewable energy portfolio, including any proposed contracts or purchases under which an electrical corporation will procure renewable energy.

(2) The costs of contracts for eligible renewable energy resources that have been approved by the commission shall be recoverable in rates of electrical corporations.

~~(d) The commission shall not enforce the requirements of this section until the retail seller procures 20 percent of its retail sales from eligible renewable energy resources. Upon determining that the retail seller is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of this section with respect to that retail seller.~~

~~SEC. 16.~~

SEC. 18. Section 399.16 of the Public Utilities Code is amended and renumbered to read:

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

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

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

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

~~(4)~~

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

~~(5)~~

(4) No renewable energy credits shall be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.25 and included in the ~~baseline~~ quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

~~(6)~~

(5) No renewable energy credits shall be created for electricity generated under any electricity purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the electricity purchase contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.12 and count toward the renewables portfolio standard obligations of the purchasing retail seller.

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

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

(6) The quantity of undelivered renewable energy credits used by a retail seller to meet the renewables portfolio standard procurement requirements of this article shall not exceed 20 percent of its procurement requirements. Notwithstanding this limitation, the commission shall authorize a retail seller to use undelivered renewable energy credits procured through contracts executed by the retail seller prior to May 31, 2009, and approved by the commission, to be counted towards the renewables portfolio standard procurement requirements of that retail seller.

(7) No renewable energy credit or undelivered renewable energy credit shall be eligible for compliance with a renewables portfolio standard procurement requirement after 18 months from the initial date of generation of the associated electricity. A renewable energy credit or undelivered renewable energy credit is used for compliance when the retail seller or local publicly owned electric utility irrevocably retires the credit within the tracking system established pursuant to subdivision (c) of Section 399.25.

~~(9)~~

(8) Any additional condition that the commission determines is reasonable.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits *and undelivered renewable energy credits* in rates.

~~SEC. 17.~~

SEC. 19. Section 399.17 of the Public Utilities Code is amended to read:

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

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

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

(2) The electrical corporation participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (b) of Section 399.25.

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the triennial procurement targets of this article.

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

(d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.11, 399.12, 399.13, or 399.14, and 399.25, as modified by this section.

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

SEC. 20. Section 399.18 is added to the Public Utilities Code, to read:

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

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

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

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

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

~~SEC. 18.~~

SEC. 21. Section 399.22 is added to the Public Utilities Code, to read:

399.22. (a) In order for the state to meet the requirements of the California Renewables Portfolio Standard Program, substantially increased amounts of electricity generated by eligible renewable energy resources must be integrated with, and interconnected to, the transmission grid that is under the operational control of the Independent System Operator.

(b) The Independent System Operator shall undertake all feasible efforts to do all of the following, and shall seek the approval of the Federal Energy Regulatory Commission, if necessary:

(1) Adjust its market structure to achieve, in the most cost-effective manner possible, a minimum of 33 percent of electricity generated from eligible renewable energy resources by December 31, 2020.

(2) In consultation and cooperation with local publicly owned electric utilities develop annual statewide transmission plans that incorporate local publicly owned electric utility transmission plans and any potential joint privately owned and local publicly owned

electric utility infrastructure projects, with the goal of minimizing the aggregate amount and cost of new transmission needed statewide to meet both reliability needs and renewable energy targets.

(3) Seek proposals from, and propose transmission projects to, local publicly owned electric utilities that can be jointly owned by electrical corporations, merchant transmission companies, and local publicly owned electric utilities.

(4) Eliminate barriers established by the Independent System Operator over transmission lines in its control area.

(c) The commission shall approve reasonable and cost-effective transmission and power line investments that are not under the ratemaking authority of the Federal Energy Regulatory Commission and that are necessary to enable electricity generated by eligible renewable energy resources to be delivered to retail sellers and local publicly owned electric utilities.

~~SEC. 19.~~

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

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

(b) The Energy Commission shall facilitate both of the following:

(1) The development of annual statewide transmission plans that incorporate local publicly owned electric utility transmission plans and any potential joint privately owned and local publicly owned electric utility infrastructure projects, with the goal of minimizing the aggregate amount and cost of new transmission needed statewide to meet both reliability needs and renewables portfolio standard targets.

(2) The siting and approval of new transmission lines that can be jointly owned or utilized by electrical corporations, merchant transmission companies, and local publicly owned electric utilities,

and can be jointly operated by the Independent System Operator and local publicly owned electric utility balancing authorities.

~~SEC. 20. Section 399.27 is added to the Public Utilities Code, to read:~~

~~399.27. (a) The Legislature finds and declares both of the following:~~

~~(1) The Renewable Energy Transmission Initiative (RETI) is a joint effort among the commission, Energy Commission, Independent System Operator, electrical corporations, local publicly owned electric utilities and various stakeholder, tribal, and public interest organizations to help identify the transmission projects needed to accommodate and reach the renewables portfolio standard, facilitate transmission corridor designation, and facilitate transmission and generation siting permitting.~~

~~(2) RETI has and will identify and assess competitive renewable energy zones that can provide significant supplies of electricity to California consumers by 2020 in the most cost-effective and environmentally benign manner.~~

~~(b) The commission, Energy Commission, and Independent System Operator shall consider the recommendations of the Renewable Energy Transmission Initiative in their respective responsibilities relative to the siting of transmission and eligible renewable energy resources that are necessary to achieve the renewables portfolio standard.~~

~~SEC. 21.~~

SEC. 23. Section 399.30 is added to the Public Utilities Code, to read:

399.30. (a) In order to fulfill unmet long-term generation resource needs, each local publicly owned electric utility shall adopt and implement a renewable energy resources procurement plan that, at a minimum, complies with the renewables portfolio standard adopted by the Energy Commission pursuant to subdivision (f) of Section 399.25. A public utility district that receives all of its electricity pursuant to a preference right adopted and authorized by the United States Congress pursuant to Section 4 of the Trinity River Division Act of August 12, 1955 (Public Law 84-386) shall be in compliance with the renewable energy procurement requirements of this article.

(b) (1) Every three years, each local publicly owned electric utility shall post notice in accordance with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code whenever its governing body will deliberate in public on its renewable energy resources procurement plan.

(2) Contemporaneous with the posting of the notice of a public meeting to consider the energy resources procurement plan, the local publicly owned electric utility shall notify the Energy Commission of the date, time, and location of the meeting so the Energy Commission may post the information on its Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to this information.

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

(c) Within 30 business days after a local publicly owned electric utility executes a renewable resource procurement contract, the local publicly owned electric utility shall submit to the Energy Commission documentation that includes all of the following:

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

(2) A description and identification of the electric generating facility providing the eligible renewable energy resource under the contract.

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

(d) (1) A local publicly owned electric utility may use renewable energy credits *and undelivered renewable energy credits* to meet its renewables portfolio standard procurement requirements *only* to the same extent and under the same circumstances as a retail seller is authorized to use renewable energy credits *and* *undelivered renewable energy credits* to meet the retail seller's renewables portfolio standard procurement requirements.

(2) A local publicly owned electric utility shall not sell renewable energy credits *and undelivered renewable energy credits* to a retail seller if the utility is not in compliance with its renewables portfolio standard procurement requirements or if, as a result of the sale, the utility would fail to meet its procurement requirements.

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

(1) Expenditures of funds collected pursuant to the renewable energy public goods charge for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, expected results, and actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of *renewable energy credits, undelivered renewable energy credits, and* each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12, except that the electricity is delivered to the local publicly owned electric utility and not a retail seller. ~~Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard if it were delivered to a retail seller.~~ *The Energy Commission shall audit and review the reports and publish a summary of progress based on the assumption that each local publicly owned electric utility is subject to equivalent renewables portfolio standard procurement requirements, accounting rules, limits on undelivered renewable energy credits, certification requirements, and resource eligibility requirements as are applicable to retail sellers.*

(3) The utility's status in implementing the renewables portfolio standard adopted by the Energy Commission for the utility pursuant to subdivision (f) of Section 399.25.

(f) The Energy Commission shall report to the Legislature by January 1 of every even-numbered year, relative to local publicly owned electric utilities, on all of the following:

(1) The progress and status of procurement activities by each local publicly owned electric utility.

(2) The status of permitting and siting eligible renewable energy resources and transmission facilities necessary to deliver the electricity generated to load, including the time taken to permit each eligible renewable energy resource and transmission line or upgrade, explanations of failures to meet permitting milestones, and recommendations for improvements to expedite permitting and siting processes.

(3) The projected ability of local publicly owned electric utilities to meet renewables portfolio standard procurement requirements under any cost limitations adopted by the governing bodies.

(4) The identification of any barriers to, and policy recommendations for, achieving a 33 percent renewables portfolio standard for local publicly owned electric utilities by December 31, 2020.

~~SEC. 22.~~

SEC. 24. Section 399.31 is added to the Public Utilities Code, to read:

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

(a) The local publicly owned electric utility has adopted and implemented a renewable energy resources procurement plan that complies with the renewables portfolio standard adopted by the Energy Commission pursuant to subdivision (f) of Section 399.25.

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

~~SEC. 23.~~

SEC. 25. Section 454.5 of the Public Utilities Code is amended to read:

454.5. (a) The commission shall specify the allocation of electricity, including quantity, characteristics, and duration of electricity delivery, that the Department of Water Resources shall provide under its power purchase agreements to the customers of each electrical corporation, which shall be reflected in the electrical corporation’s proposed procurement plan. Each electrical corporation shall file a proposed procurement plan with the commission not later than 60 days after the commission specifies the allocation of electricity. The proposed procurement plan shall specify the date that the electrical corporation intends to resume procurement of electricity for its retail customers, consistent with its obligation to serve. After the commission’s adoption of a procurement plan, the commission shall allow not less than 60 days before the electrical corporation resumes procurement pursuant to this section.

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

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

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

(3) The duration of the plan.

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

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

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

(7) The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission’s review of proposed contracts and subsequent approval or rejection thereof. The electrical

corporation shall propose alternative procurement choices in the event a contract is rejected.

(8) Procedures for updating the procurement plan.

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

(A) The electrical corporation shall, in order to fulfill its unmet resource needs, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3).

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

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

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

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

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

(c) The commission shall review and accept, modify, or reject each electrical corporation's procurement plan. The commission's review shall consider each electrical corporation's individual procurement situation, and shall give strong consideration to that situation in determining which one or more of the features set forth in this subdivision shall apply to that electrical corporation. A procurement plan approved by the commission shall contain one or more of the following features, provided that the commission may not approve a feature or mechanism for an electrical corporation if it finds that the feature or mechanism would impair the restoration of an electrical corporation's creditworthiness or would lead to a deterioration of an electrical corporation's creditworthiness:

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

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

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

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

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

(2) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and assure that each contract was administered in accordance with the terms of the contract, and contract disputes which may arise are reasonably resolved.

(3) Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The

commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing accounts, not less than semiannually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement balancing account does not exceed 5 percent of the electrical corporation's actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the 5 percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission consistent with the objectives of this section.

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

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

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

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

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

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

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

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

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

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

~~SEC. 24.~~

SEC. 26. Section 747 of the Public Utilities Code is amended and renumbered to read:

910. (a) It is the intent of the Legislature that the commission reduce rates for electricity and natural gas to the lowest amount possible.

(b) The commission shall prepare a written report on the costs of programs and activities conducted by each electrical corporation and gas corporation that is subject to this section, including activities conducted to comply with their duty to serve. The report shall be completed on an annual basis before February 1 of each year, and shall identify, clearly and concisely, all of the following:

(1) Each program mandated by statute and its annual cost to ratepayers.

(2) Each program mandated by the commission and its annual cost to ratepayers.

(3) Energy purchase contract costs and bond-related costs incurred pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(4) All other aggregated categories of costs currently recovered in retail rates as determined by the commission.

(c) As used in this section, the reporting requirements apply to electrical corporations with at least 1,000,000 retail customers in California and gas corporations with at least 500,000 retail customers in California.

(d) The report required by subdivision (b) shall be submitted to the Governor and the Legislature no later than February 1 of each year.

(e) The commission shall post the report required by subdivision (b) in a conspicuous area of its Internet Web site.

~~SEC. 25.~~

SEC. 27. The heading of Article 11 (commencing with Section 910) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 11. Reports

~~SEC. 26.~~

SEC. 28. Section 911 is added to the Public Utilities Code, to read:

911. (a) The commission shall, on an annual basis by February 1 of each year, prepare and submit to the policy and fiscal

committees of the Legislature a written report summarizing the following information:

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

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

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

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

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

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

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

(b) The commission may combine the information required by this section with the report prepared pursuant to Section 910.

~~SEC. 27.~~

SEC. 29. Section 1005.1 is added to the Public Utilities Code, to read:

1005.1. (a) The commission shall approve an application for a certificate within one year of the date of filing of the completed application, when all of the following are true:

(1) The application is for a certificate for building or upgrading an electrical transmission line.

(2) The transmission line is needed to provide transmission to load centers for electricity generated in a high priority renewable energy zone or is reasonably necessary to facilitate achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11) of Chapter 2.3.

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

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

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

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

(D) That the transmission line threatens substantial harm to the environment that necessitates an extension of time for completion of review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(b) The commission may, if it finds that the costs were justified pursuant to subdivision (a) of Section 454, allow recovery in rates of any increase in transmission costs incurred by an electrical corporation in planning, designing, and engineering the reconfiguration, replacement, expansion, or construction of transmission facilities, to the extent that those costs are not otherwise authorized for recovery in rates approved by the Federal Energy Regulatory Commission.

~~SEC. 28. It is the intent of the Legislature to, through the Budget Act or other measure, appropriate the sum of three million seven hundred thousand dollars ($3,700,000) from the Public Interest Research, Development, and Demonstration Fund to the Energy Commission for contracts and for interagency agreements with the Department of Fish and Game or other wildlife agencies for the preparation of one or more natural communities conservation plans in the Mojave and Colorado Desert regions for the purposes of facilitating the development of solar energy in those regions.~~

~~SEC. 29.~~

SEC. 30. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because certain costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

With respect to certain other costs, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 31. (a) The sum of three hundred twenty-two thousand dollars ($322,000) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account to the Public Utilities Commission for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(b) It is the intent of the Legislature, through the Budget Act or other measure, to appropriate the sum of two million three hundred thirty-nine thousand dollars ($2,339,000) from the Energy Resources Programs Account to the State Energy Resources Conservation and Development Commission for additional staffing to process applications for certification of powerplants pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

(c) It is the intent of the Legislature, through the Budget Act or other measure, to appropriate the sum of two million five hundred eighty-nine thousand dollars ($2,589,000) from the Energy Resources Programs Account to the State Energy Resources Conservation and Development Commission for additional staffing to do the following:

(1) To prepare, in association with the Department of Fish and Game, one or more natural communities conservation plans for the Mojave and Colorado Desert regions to facilitate the development of renewable electrical generation facilities using solar energy in those regions.

(2) To assist the federal Bureau of Land Management in the development of a program environmental impact report to identify appropriate areas, on federal lands within the state, for the development of renewable electrical generation facilities using solar energy.

(3) To develop best management practices to facilitate development of renewable electrical generation facilities using solar energy, while minimizing environmental impacts.

(d) It is the intent of the Legislature, through the Budget Act or other measure, to appropriate the sum of three million fifty-seven thousand dollars ($3,057,000) to the Department of Fish and Game for staffing for the Renewable Energy Regulatory Action Team to develop natural communities conservation plans for transmission lines and powerplant sitings.

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