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SENATE BILL

No. 722

Introduced by Senators Simitian, Kehoe, and Steinberg
*(Principal coauthors: Assembly Members Bradford, Chesbro, and
Skinner)*
(Coauthor: Senator Alquist)

February 27, 2009

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 of, ~~and~~ to add Section 25519.5 to, *and to add and repeal Section 25741.5 of*, the Public Resources Code, and to amend Sections ~~399.2.5~~, 399.11, 399.12, 399.17, 399.20, and 454.5 of, to amend, renumber, and add Sections 399.13 and 399.16 of, to add Sections ~~399.16~~, ~~399.18~~ 399.18, 399.19, 399.26, 399.30, 399.31, and 1005.1 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, to repeal Section 387 of, and to repeal and add Sections 399.14 and 399.15 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, 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). The act requires the commission to certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The act requires the commission to transmit a copy of an application for certification of a site and related facility to, among other entities, each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

This bill would require an applicant to inform the United States Department of Defense of a proposed project and that an application will be filed with the commission if the site and related facility specified in the application is proposed to be located within ~~1000~~ 1,000 feet of a military installation, or lies within special use airspace or beneath a low-level flight path, as defined.

Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury, and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the

Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

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

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, by a specified amount.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, and 33% by December 31, 2020. The bill would require the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller

for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all subsequent years. The bill, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, would require that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified. The bill would ~~authorize~~ *require* the PUC to waive ~~the imposition of penalties associated with enforcement of~~ the renewables portfolio standard procurement requirement if the PUC finds that the retail seller has demonstrated certain conditions exist that are beyond the control of the retail seller and will prevent compliance, ~~has made material progress towards meeting the applicable renewables portfolio standard procurement requirement,~~ and has taken all reasonable actions under its control to ~~remove impediments to full~~ *achieve* compliance. The bill would require the PUC to direct each electrical corporation to annually prepare a renewable energy procurement plan containing specified matter and require, to the extent feasible, that the plan be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The bill would require the commission to direct all retail sellers to prepare and submit an annual compliance report. The bill would delete the existing market price referent provisions, and instead require the PUC to establish a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard. The bill would require that by January 1, 2016, the PUC report to the Legislature assessing whether each electrical corporation can achieve a 33% renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the cost limitations. The bill would provide that, if the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation is authorized to refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without ~~increasing ratepayer costs relative to the procurement of conventional energy resources~~ *exceeding a de minimis increase in rates, consistent with the electrical corporation's*

general procurement plan. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers. The bill would revise the definitions of certain terms for purposes of the RPS program, *would revise certain provisions applicable only to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside of California, and would add provisions applicable to certain smaller electrical corporations.* The bill would authorize an electrical corporation to apply to the PUC for approval to construct, own, and operate an eligible renewable energy resource, and would require the PUC to approve the application if certain conditions are met, until electrical corporation owned and operated resources provide 8.25% of the corporation's anticipated retail sales.

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

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

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

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

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

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

(5) Existing law requires the PUC 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.

This 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, (G) any changes in the prior year in load serviced by an electrical corporation, and (H) the

efforts each electrical corporation is taking to recruit and train employees to ensure an adequately trained and available workforce.

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

(7) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. ~~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 issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances. ~~The bill would require 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 reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard. The bill would require the PUC to provide assurance of the eligibility for recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of transmission facilities in certain circumstances and to allow recovery in retail rates of any increase in transmission costs if not approved by the Federal Energy Regulatory Commission if the PUC determines the costs were prudently incurred pursuant to a specified law.~~

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

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

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

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

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

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

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

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

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

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

3 **SECTION 1.**

4 **SEC. 1.5.** Section 705 is added to the Fish and Game Code, to
5 read:

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

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

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

18 **SEC. 2.** Section 25519.5 is added to the Public Resources Code,
19 to read:

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

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

37 **SEC. 3.** Section 25740 of the Public Resources Code is
38 amended to read:

1 25740. It is the intent of the Legislature in establishing this
2 program, to increase the amount of electricity generated from
3 eligible renewable energy resources per year, so that it equals at
4 least 33 percent of total retail sales of electricity in California per
5 year by December 31, 2020.

6 SEC. 4. Section 25740.5 of the Public Resources Code is
7 amended to read:

8 25740.5. (a) The commission shall optimize public investment
9 and ensure that the most cost-effective and efficient investments
10 in renewable energy resources are vigorously pursued.

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

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

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

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

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

27 (2) Customer education.

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

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

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

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

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

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

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

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

26 SEC. 5. Section 25741 of the Public Resources Code is
27 amended to read:

28 25741. As used in this chapter, the following terms have the
29 following meaning:

30 (a) “Renewable electrical generation facility” means a facility
31 that meets all of the following criteria:

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

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

39 (A) The facility is located in the state or near the border of the
40 state with the first point of connection to the transmission network

1 of a balancing authority area primarily located within the state.
2 For purposes of this subparagraph, “balancing authority area” has
3 the same meaning as defined in Section 399.12 of the Public
4 Utilities Code.

5 (B) The facility has its first point of interconnection to the
6 transmission network outside the state, within the Western
7 Electricity Coordinating Council (WECC) service area, and
8 satisfies all of the following requirements:

9 (i) It commences initial commercial operation after January 1,
10 2005.

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

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

17 (C) The facility meets the requirements of clauses (ii) and (iii)
18 of subparagraph (B), but does not meet the requirements of clause
19 (i) of subparagraph (B) because it commenced initial operation
20 prior to January 1, 2005, if the facility satisfies either of the
21 following requirements:

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

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

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

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

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

35 (2) The technology produces no discharges of air contaminants
36 or emissions, including greenhouse gases as defined in Section
37 38505 of the Health and Safety Code.

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

40 (4) The technology produces no hazardous wastes.

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

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

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

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

16 (c) “Renewable energy public goods charge” means that portion
17 of the nonbypassable system benefits charge required to be
18 collected to fund renewable energy pursuant to the Reliable Electric
19 Service Investments Act (Article 15 (commencing with Section
20 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
21 Code).

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

26 (e) “Retail seller” means a “retail seller” as defined in Section
27 399.12 of the Public Utilities Code.

28 *SEC. 5.5. Section 25741.5 is added to the Public Resources*
29 *Code, to read:*

30 *25741.5. (a) For purposes of this section, the following terms*
31 *have the following meanings:*

32 *(1) “Interested governmental entities” means an entity of*
33 *federal, state, or local government, including the Public Utilities*
34 *Commission, the State Air Resources Board, and local publicly*
35 *owned electric utilities, whose regulatory or procurement duties*
36 *or functions may be affected by whether run-of-river hydroelectric*
37 *generating facilities located in British Columbia are renewable*
38 *electrical generation facilities.*

39 *(2) “Run-of-river hydroelectric generating facility” means a*
40 *facility that uses the natural flow and elevation drop of a river to*

1 generate electricity by diverting water into a pipeline or penstock,
2 using the water to generate electricity, and returning the water to
3 the stream's natural flow.

4 (b) By June 30, 2011, after providing public notice and an
5 opportunity for public comment, including holding at least one
6 public workshop, and following consultation with interested
7 governmental entities, the commission shall study and provide a
8 report to the Legislature that analyzes run-of-river hydroelectric
9 generating facilities in British Columbia, including whether these
10 facilities are, or should be, included as renewable electrical
11 generation facilities pursuant to Section 25741 or eligible
12 renewable energy resources pursuant to Article 16 (commencing
13 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
14 Public Utilities Code.

15 (c) By completing the study and making recommendations, the
16 commission shall consider the effect that inclusion would have
17 upon all of the following:

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

19 (2) Emissions of air pollutants.

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

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

23 (d) The report submitted pursuant to this section shall be
24 submitted in compliance with Section 9795 of the Government
25 Code.

26 (e) Pursuant to Section 10231.5 of the Government Code, this
27 section is repealed on January 1, 2015.

28 SEC. 6. Section 25742 of the Public Resources Code is
29 amended to read:

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

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

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

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

11 (2) Is used onsite.

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

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

20 (e) Each existing facility seeking an award pursuant to this
21 section shall be evaluated by the commission to determine the
22 amount of the funds being sought, the cumulative amount of funds
23 the facility has received previously from the commission and other
24 state sources, the value of any past and current federal or state tax
25 credits, the facility's contract price for energy and capacity, the
26 prices received by similar facilities, the market value of the facility,
27 and the likelihood that the award will make the facility competitive
28 and self-sustaining within the 2007–2011 investment cycle. The
29 commission shall use this evaluation to determine the value of an
30 award to the public relative to other renewable energy investment
31 alternatives. The commission shall compile its findings and report
32 them to the Legislature in the reports prepared pursuant to Section
33 25748.

34 SEC. 7. Section 25746 of the Public Resources Code is
35 amended to read:

36 25746. (a) One percent of the money collected pursuant to the
37 renewable energy public goods charge shall be used in accordance
38 with this chapter to promote renewable energy and disseminate
39 information on renewable energy technologies, including emerging
40 renewable technologies, and to help develop a consumer market

1 for renewable energy and for small-scale emerging renewable
2 energy technologies.

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

8 SEC. 8. Section 25747 of the Public Resources Code is
9 amended to read:

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

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

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

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

38 SEC. 9. Section 25751 of the Public Resources Code is
39 amended to read:

1 25751. (a) The Renewable Resource Trust Fund is hereby
2 created in the State Treasury.

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

5 (1) Existing Renewable Resources Account.

6 (2) Emerging Renewable Resources Account.

7 (3) Renewable Resources Consumer Education Account.

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

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

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

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

31 (e) Upon notification by the commission, the Controller shall
32 pay all awards of the money in the accounts created pursuant to
33 subdivision (b) for purposes enumerated in this chapter. The
34 eligibility of each award shall be determined solely by the
35 commission based on the procedures it adopts under this chapter.
36 Based on the eligibility of each award, the commission shall also
37 establish the need for a multiyear commitment to any particular
38 award and so advise the Department of Finance. Eligible awards
39 submitted by the commission to the Controller shall be
40 accompanied by information specifying the account from which

1 payment should be made and the amount of each payment; a
2 summary description of how payment of the award furthers the
3 purposes enumerated in this chapter; and an accounting of future
4 costs associated with any award or group of awards known to the
5 commission to represent a portion of a multiyear funding
6 commitment.

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

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

20 SEC. 10. Section 387 of the Public Utilities Code is repealed.

21 ~~SEC. 11. Section 399.2.5 of the Public Utilities Code is~~
22 ~~amended to read:~~

23 ~~399.2.5. (a) Notwithstanding Sections 1001 to 1013, inclusive,~~
24 ~~an application of an electrical corporation for a certificate~~
25 ~~authorizing the construction of new transmission facilities is~~
26 ~~necessary to the provision of electric service for purposes of~~
27 ~~Section 1003 if the commission finds that the new facility is~~
28 ~~reasonably necessary or appropriate to facilitate achievement of~~
29 ~~the renewables portfolio standard established in Article 16~~
30 ~~(commencing with Section 399.11).~~

31 ~~(b) With respect to a transmission facility described in~~
32 ~~subdivision (a), the commission shall take all feasible actions to~~
33 ~~ensure that the transmission rates established by the Federal Energy~~
34 ~~Regulatory Commission are fully reflected in any retail rates~~
35 ~~established by the commission. These actions shall include all of~~
36 ~~the following:~~

37 ~~(1) Making findings, where supported by an evidentiary record,~~
38 ~~that those transmission facilities provide benefit to the transmission~~
39 ~~network and are reasonably necessary or appropriate to facilitate~~

1 the achievement of the renewables portfolio standard established
2 in Article 16 (commencing with Section 399.11):

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

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

10 ~~(4) Providing assurance, prior to a determination of rate recovery~~
11 ~~by the Federal Energy Regulatory Commission (FERC) of those~~
12 ~~costs that are subject to FERC jurisdiction, of the eligibility for~~
13 ~~recovery in retail rates of any increase in transmission costs~~
14 ~~incurred by an electrical corporation resulting from the construction~~
15 ~~of the transmission facilities.~~

16 ~~(5) Allowing recovery in retail rates of any increase in~~
17 ~~transmission costs if the FERC does not approve recovery of those~~
18 ~~costs in the rates that are subject to FERC jurisdiction after the~~
19 ~~commission determines that the costs were reasonably and~~
20 ~~prudently incurred.~~

21 ~~(e) (1) The commission shall approve an advice letter seeking~~
22 ~~assurance of cost recovery pursuant to paragraph (4) of subdivision~~
23 ~~(b), if either of the following is true:~~

24 ~~(A) The new transmission line or facility is an upgrade of an~~
25 ~~existing transmission line or facility, or is a new facility within~~
26 ~~either an existing transmission right-of-way or a transmission~~
27 ~~corridor zone that has been designated by the Energy Commission~~
28 ~~pursuant to Section 25331 of the Public Resources Code, and is~~
29 ~~consistent with the priority transmission projects in the conceptual~~
30 ~~transmission plan in the final Phase 3 report produced by the public~~
31 ~~collaborative stakeholder planning process known as the~~
32 ~~Renewable Energy Transmission Initiative (RETI).~~

33 ~~(B) Not less than 50 percent of the planned use for the capacity~~
34 ~~of the new transmission line or facility is for interconnecting~~
35 ~~eligible renewable energy resources, as determined by the~~
36 ~~Independent System Operator or an electrical corporation, and all~~
37 ~~interconnection requests for that transmission line or facility are~~
38 ~~for generation facilities that comply with the greenhouse gases~~
39 ~~emission performance standard established pursuant to Chapter 3~~
40 ~~(commencing with Section 8340) of Division 4.1.~~

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

6 ~~SEC. 12.~~

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

9 399.11. The Legislature finds and declares all of the following:

10 (a) In order to attain a target of generating 20 percent of total
 11 retail sales of electricity in California from eligible renewable
 12 energy resources by December 31, 2013, and 33 percent by
 13 December 31, 2020, it is the intent of the Legislature that the
 14 commission and the Energy Commission implement the California
 15 Renewables Portfolio Standard Program described in this article.

16 (b) Achieving the renewables portfolio standard through the
 17 procurement of various electricity products from eligible renewable
 18 energy resources is intended to provide unique benefits to
 19 California, including all of the following, each of which
 20 independently justifies the program:

- 21 (1) Displacing fossil fuel consumption within the state.
- 22 (2) Adding new electrical generating facilities in the
 23 transmission network within the Western Electricity Coordinating
 24 Council service territory.
- 25 (3) Reducing air pollution in the state.
- 26 (4) Meeting the state’s climate change goals by reducing
 27 emissions of greenhouse gases associated with electrical generation.
- 28 (5) Promoting stable retail rates for electric service.
- 29 (6) Meeting the state’s need for a diversified and balanced
 30 energy generation portfolio.
- 31 (7) Assistance with meeting the state’s resource adequacy
 32 requirements.
- 33 (8) Contributing to the safe and reliable operation of the
 34 electrical grid, including providing predictable electrical supply,
 35 voltage support, lower line losses, and congestion relief.
- 36 (9) Implementing the state’s transmission and land-use planning
 37 activities related to development of eligible renewable energy
 38 resources.
- 39 (c) The California Renewables Portfolio Standard Program is
 40 intended to complement the Renewable Energy Resources Program

1 administered by the Energy Commission and established pursuant
2 to Chapter 8.6 (commencing with Section 25740) of Division 15
3 of the Public Resources Code.

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

7 (e) (1) Supplying electricity to California end-use customers
8 that is generated by eligible renewable energy resources is
9 necessary to improve California’s air quality and public health,
10 and the commission shall ensure rates are just and reasonable, and
11 are not significantly affected by the procurement requirements of
12 this article. This electricity may be generated anywhere in the
13 interconnected grid that includes many states, and areas of both
14 Canada and Mexico.

15 (2) This article requires generating resources located outside of
16 California, but able to supply that electricity to California end-use
17 customers, to be treated identically to generating resources located
18 within the state, without discrimination.

19 (3) California electrical corporations have already executed,
20 and the commission has approved, power purchase agreements
21 with eligible renewable energy resources located outside of
22 California that will supply electricity to California end-use
23 customers. These resources will fully count toward meeting the
24 renewables portfolio standard procurement requirements. In
25 addition, there are nearly 7,000 megawatts of additional proposed
26 renewable energy resources located outside of California that are
27 awaiting interconnection approval from the Independent System
28 Operator. All of these resources, if procured, will count as eligible
29 renewable energy resources that satisfy the portfolio content
30 requirements of paragraph (1) of subdivision (c) of Section 399.16.

31 ~~SEC. 13.~~

32 *SEC. 12.* Section 399.12 of the Public Utilities Code is
33 amended to read:

34 399.12. For purposes of this article, the following terms have
35 the following meanings:

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

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

5 (c) “Balancing authority area” means the collection of
6 generation, transmission, and loads within the metered boundaries
7 of the area within which the balancing authority maintains the
8 electrical load-resource balance.

9 (d) “California balancing authority” is a balancing authority
10 with control over a balancing authority area primarily located in
11 this state and operating for retail sellers and local publicly owned
12 electric utilities subject to the requirements of this article and
13 includes the Independent System Operator (ISO) and a local
14 publicly owned electric utility operating a transmission grid that
15 is not under the operational control of the ISO. A California
16 balancing authority is responsible for the operation of the
17 transmission grid within its metered boundaries which may not be
18 limited by the political boundaries of the State of California.

19 (e) “Eligible renewable energy resource” means an electrical
20 generating facility that meets the definition of a “renewable
21 electrical generation facility” in Section 25741 of the Public
22 Resources Code, subject to the following:

23 (1) (A) An existing small hydroelectric generation facility of
24 30 megawatts or less shall be eligible only if a retail seller or local
25 publicly owned electric utility procured the electricity from the
26 facility as of December 31, 2005. A small hydroelectric generation
27 unit with a nameplate capacity not exceeding 40 megawatts that
28 is operated as part of a water supply or conveyance system is an
29 eligible renewable energy resource if the retail seller or local
30 publicly owned electric utility procured the electricity from the
31 facility as of December 31, 2005. A new hydroelectric facility that
32 commences generation of electricity after December 31, 2005, is
33 not an eligible renewable energy resource if it will cause an adverse
34 impact on instream beneficial uses or cause a change in the volume
35 or timing of streamflow.

36 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
37 facility of 30 megawatts or less that commenced operation before
38 January 1, 2006, is an eligible renewable energy resource. A
39 conduit hydroelectric facility of 30 megawatts or less that
40 commences operation after December 31, 2005, is an eligible

1 renewable energy resource so long as it does not cause an adverse
2 impact on instream beneficial uses or cause a change in the volume
3 or timing of streamflow.

4 (C) A facility approved by the governing board of a local
5 publicly owned electric utility prior to June 1, 2010, for
6 procurement to satisfy renewable energy procurement obligations
7 adopted pursuant to former Section 387, shall be certified as an
8 eligible renewable energy resource by the Energy Commission
9 pursuant to this article, if the facility is a “renewable electrical
10 generation facility” as defined in Section 25741 of the Public
11 Resources Code.

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

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

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

21 (h) (1) “Renewable energy credit” means a certificate of proof
22 associated with the generation of electricity from an eligible
23 renewable energy resource, issued through the accounting system
24 established by the Energy Commission pursuant to Section 399.25,
25 that one unit of electricity was generated by an eligible renewable
26 energy resource.

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

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

39 (3) (A) *No electricity generated by an eligible renewable energy*
40 *resource attributable to the use of nonrenewable fuels, beyond a*

1 *de minimis* quantity used to generate electricity in the same process
2 through which the facility converts renewable fuel to electricity,
3 shall result in the creation of a renewable energy credit. The
4 Energy Commission shall set the *de minimis* quantity of
5 nonrenewable fuels for each renewable energy technology at a
6 level of no more than 2 percent of the total quantity of fuel used
7 by the technology to generate electricity. The Energy Commission
8 may adjust the *de minimis* quantity for an individual facility, up
9 to a maximum of 5 percent, if it finds that all of the following
10 conditions are met:

11 (i) The facility demonstrates that the higher quantity of
12 nonrenewable fuel will lead to an increase in generation from the
13 eligible renewable energy facility that is significantly greater than
14 generation from the nonrenewable fuel alone.

15 (ii) The facility demonstrates that the higher quantity of
16 nonrenewable fuel will reduce the variability of its electrical output
17 in a manner that results in net environmental benefits to the state.

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

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

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

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

32 (i) “Renewables portfolio standard” means the specified
33 percentage of electricity generated by eligible renewable energy
34 resources that a retail seller or a local publicly owned electric utility
35 is required to procure pursuant to this article.

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

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

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

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

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

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

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

24 (C) A local publicly owned electric utility.

25 (k) “WECC” means the Western Electricity Coordinating
26 Council of the North American Electric Reliability Corporation,
27 or a successor to either corporation.

28 ~~SEC. 14.~~

29 *SEC. 13.* Section 399.13 of the Public Utilities Code is
30 amended and renumbered to read:

31 399.25. The Energy Commission shall do all of the following:

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

34 (b) Design and implement an accounting system to verify
35 compliance with the renewables portfolio standard by retail sellers
36 and local publicly owned electric utilities, to ensure that electricity
37 generated by an eligible renewable energy resource is counted
38 only once for the purpose of meeting the renewables portfolio
39 standard of this state or any other state, to certify renewable energy
40 credits produced by eligible renewable energy resources, and to

1 verify retail product claims in this state or any other state. In
2 establishing the guidelines governing this accounting system, the
3 Energy Commission shall collect data from electricity market
4 participants that it deems necessary to verify compliance of retail
5 sellers and local publicly owned electric utilities, in accordance
6 with the requirements of this article and the California Public
7 Records Act (Chapter 3.5 (commencing with Section 6250) of
8 Division 7 of Title 1 of the Government Code). In seeking data
9 from electrical corporations, the Energy Commission shall request
10 data from the commission. The commission shall collect data from
11 electrical corporations and remit the data to the Energy
12 Commission within 90 days of the request.

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

20 (d) Certify, for purposes of compliance with the renewables
21 portfolio standard requirements by a retail seller, the eligibility of
22 renewable energy credits associated with eligible renewable energy
23 resources procured by a local publicly owned electric utility, if the
24 Energy Commission determines that all of the conditions of Section
25 399.31 have been met.

26 ~~SEC. 15.~~

27 *SEC. 14.* Section 399.13 is added to the Public Utilities Code,
28 to read:

29 399.13. (a) (1) The commission shall direct each electrical
30 corporation to annually prepare a renewable energy procurement
31 plan that includes the matter in paragraph (5), to satisfy its
32 obligations under the renewables portfolio standard. To the extent
33 feasible, this procurement plan shall be proposed, reviewed, and
34 adopted by the commission as part of, and pursuant to, a general
35 procurement plan process. The commission shall require each
36 electrical corporation to review and update its renewable energy
37 procurement plan as it determines to be necessary.

38 (2) Every electrical corporation that owns electrical transmission
39 facilities shall annually prepare, as part of the Federal Energy
40 Regulatory Commission Order 890 process, and submit to the

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

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

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

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

36 (C) Recommendations to remove impediments to making
37 progress toward achieving the renewable energy resources
38 procurement requirements established pursuant to this article.

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

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

6 (i) Estimates of indirect costs associated with needed
7 transmission investments and ongoing electrical corporation
8 expenses resulting from integrating and operating eligible
9 renewable energy resources.

10 (ii) The cost impact of procuring the eligible renewable energy
11 resources on the electrical corporation's electricity portfolio.

12 (iii) The viability of the project to construct and reliably operate
13 the eligible renewable energy resource, including the developer's
14 experience, the feasibility of the technology used to generate
15 electricity, and the risk that the facility will not be built, or that
16 construction will be delayed, with the result that electricity will
17 not be supplied as required by the contract.

18 (iv) Workforce recruitment, training, and retention efforts,
19 including the employment growth associated with the construction
20 and operation of eligible renewable energy resources and goals
21 for recruitment and training of women, minorities, and disabled
22 veterans.

23 (B) Rules permitting retail sellers to ~~apply~~ *accumulate*,
24 beginning January 1, ~~2014~~ *2011*, excess procurement in one
25 compliance period to *be applied to* any subsequent compliance
26 period. The rules shall apply equally to all retail sellers. In
27 determining the quantity of excess procurement ~~during a~~ *for the*
28 *applicable* compliance period, the commission shall deduct from
29 actual procurement quantities, the total amount of procurement
30 associated with contracts of less than 10 years in ~~duration~~ *and*
31 ~~those electricity products meeting the portfolio content of paragraph~~
32 ~~(3) of subdivision (b) of Section 399.16.~~ *duration. In no event shall*
33 *electricity products meeting the portfolio content of paragraph (3)*
34 *of subdivision (b) of Section 399.16 be counted as excess*
35 *procurement.*

36 (C) Standard terms and conditions to be used by all electrical
37 corporations in contracting for eligible renewable energy resources,
38 including performance requirements for renewable generators. A
39 contract for the purchase of electricity generated by an eligible
40 renewable energy resource shall, at a minimum, include the

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

8 (D) An appropriate minimum margin of procurement above the
9 minimum procurement level necessary to comply with the
10 renewables portfolio standard to mitigate the risk that renewable
11 projects planned or under contract are delayed or canceled. Nothing
12 in this paragraph shall preclude an electrical corporation from
13 voluntarily proposing a margin of procurement above the
14 appropriate minimum margin established by the commission.

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

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

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

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

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

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

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

38 (6) In soliciting and procuring eligible renewable energy
39 resources, each electrical corporation shall offer contracts of no

1 less than 10 years in duration, unless the commission approves of
2 a contract of shorter duration.

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

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

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

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

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

36 (f) (1) The commission may authorize a procurement entity to
37 enter into contracts on behalf of customers of a retail seller for
38 electricity products from eligible renewable energy resources to
39 satisfy the retail seller's renewables portfolio standard procurement
40 requirements. The commission may not require any person or

1 corporation to act as a procurement entity or require any party to
2 purchase eligible renewable energy resources from a procurement
3 entity.

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

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

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

22 ~~SEC. 16.~~

23 *SEC. 15.* Section 399.14 of the Public Utilities Code is
24 repealed.

25 ~~SEC. 17.~~

26 *SEC. 16.* Section 399.14 is added to the Public Utilities Code,
27 to read:

28 399.14. (a) (1) An electrical corporation may, pursuant to
29 Chapter 5 (commencing with Section 1001), and in order to meet
30 its unmet renewables portfolio standard procurement requirements,
31 apply to the commission for approval to construct, own, and operate
32 an eligible renewable energy resource.

33 (2) If the proposed eligible renewable energy resource complies
34 with the requirements of subdivision (b), the commission shall
35 approve an application filed pursuant to paragraph (1), until the
36 commission has approved applications for eligible renewable
37 energy resources for the electrical corporation that, when
38 constructed and operating, will provide 8.25 percent of the
39 electrical corporation’s anticipated retail sales by December 31,
40 2020, and thereafter.

1 (3) The commission may approve additional applications for
 2 eligible renewable energy resources once the commission has
 3 approved sufficient applications for eligible renewable energy
 4 resources for the electrical corporation that, when constructed and
 5 operating, will provide 8.25 percent of the electrical corporation's
 6 anticipated retail sales by December 31, 2020, and thereafter.

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

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

12 (2) The eligible renewable energy resource provides comparable
 13 or superior value to ratepayers when compared to then recent-~~or~~
 14 ~~contemporaneous solicitations~~ *contracts* for generation provided
 15 by eligible renewable energy resources.

16 (c) In approving any application by an electrical corporation
 17 for approval to construct, own, and operate an eligible renewable
 18 energy resource, the commission shall apply traditional
 19 cost-of-service ratemaking, ~~including reasonableness review after~~
 20 ~~construction is completed.~~ *ratemaking. When applying traditional*
 21 *cost-of-service ratemaking, the commission shall, in the certificate*
 22 *authorizing the new construction, specify the maximum cost*
 23 *determined to be reasonable and prudent for the construction of*
 24 *the facility and the cost of initial operation of the facility. Upon a*
 25 *filing by the electrical corporation, the commission may authorize*
 26 *an increase in the maximum cost of construction if it determines*
 27 *that the cost has in fact increased, that the cost increase is*
 28 *determined to be reasonable and prudent, and that the present or*
 29 *future public convenience or necessity require construction of the*
 30 *project at the increased cost.*

31 ~~SEC. 18.~~

32 *SEC. 17.* Section 399.15 of the Public Utilities Code is
 33 repealed.

34 ~~SEC. 19.~~

35 *SEC. 18.* Section 399.15 is added to the Public Utilities Code,
 36 to read:

37 399.15. (a) In order to fulfill unmet long-term resource needs,
 38 the commission shall establish a renewables portfolio standard
 39 requiring all retail sellers to procure a minimum quantity of
 40 electricity products from eligible renewable energy resources as

1 a specified percentage of total kilowatthours sold to their retail
2 end-use customers each compliance period to achieve the targets
3 established under this article. *For any retail seller procuring at*
4 *least 14 percent of retail sales from eligible renewable energy*
5 *resources in 2010, no deficits associated with any previous*
6 *renewables portfolio standard shall be added to any procurement*
7 *requirement pursuant to this article.*

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

10 (1) Each retail seller shall procure a minimum quantity of
11 eligible renewable energy resources for each of the following
12 compliance periods:

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

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

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

16 (2) (A) No later than January 1, 2012, the commission shall
17 establish the quantity of electricity products from eligible
18 renewable energy resources to be procured by the retail seller for
19 each compliance period. These quantities shall be established in
20 the same manner for all retail sellers and result in the same
21 percentages used to establish compliance period quantities for all
22 retail sellers.

23 (B) In establishing quantities for the compliance period from
24 January 1, 2011, to December 31, 2013, inclusive, the commission
25 shall require procurement for each retail seller equal to an average
26 of 20 percent of retail sales. For the following compliance periods,
27 the quantities shall reflect reasonable progress in each of the
28 intervening years sufficient to ensure that the procurement of
29 electricity products from eligible renewable energy resources
30 achieves 25 percent of retail sales by December 31, 2016, and 33
31 percent of retail sales by December 31, 2020. The commission
32 shall require retail sellers to procure not less than 33 percent of
33 retail sales of electricity products from eligible renewable energy
34 resources in all subsequent years.

35 (C) Retail sellers shall be obligated to procure no less than the
36 quantities associated with all intervening years by the end of each
37 compliance period. Retail sellers shall not be required to
38 demonstrate a specific quantity of procurement for any individual
39 intervening year.

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

6 (4) Only for purposes of establishing the renewables portfolio
7 standard procurement requirements of paragraph (1) and
8 determining the quantities pursuant to paragraph (2), the
9 commission shall include all electricity sold to retail customers by
10 the Department of Water Resources pursuant to Division 27
11 (commencing with Section 80000) of the Water Code in the
12 calculation of retail sales by an electrical corporation.

13 (5) ~~The commission may waive the imposition of penalties~~
14 ~~associated with the renewables portfolio standard procurement~~
15 ~~requirements of a retail seller pursuant to paragraphs (1) and (2),~~
16 ~~or a portion thereof, shall waive enforcement of Section 399.15~~ if
17 it finds that the retail seller has demonstrated any of the following
18 conditions are beyond the control of the retail seller and will
19 prevent compliance:

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

27 (i) Whether the retail seller has undertaken, in a timely fashion,
28 ~~all~~ reasonable measures *under its control and consistent with its*
29 *obligations under local, state, and federal laws and regulations,*
30 to develop and construct new transmission lines or upgrades to
31 existing lines intended to transmit electricity generated by eligible
32 renewable energy ~~resources to its retail customers.~~ *resources. In*
33 *determining the reasonableness of a retail seller's actions, the*
34 *commission shall consider the retail seller's expectations for*
35 *full-cost recovery for such transmission lines and upgrades.*

36 (ii) Whether the retail seller has taken all reasonable operational
37 measures to maximize *cost-effective* deliveries of electricity from
38 eligible renewable energy resources in advance of transmission
39 availability.

1 ~~(B) Unanticipated permitting, interconnection, or other related~~
2 ~~delays for~~

3 *(B) Permitting, interconnection, or other circumstances that*
4 *delay procured eligible renewable energy resource projects, or*
5 ~~unforeseen circumstances that have led to~~ *there is* an insufficient
6 supply of eligible renewable energy resources available to the retail
7 seller. In making a finding that this condition prevents timely
8 compliance, the commission shall consider whether the retail seller
9 has done all of the following:

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

12 (ii) Sought to develop *one of the following*: its own eligible
13 renewable energy resources, *transmission to interconnect to eligible*
14 *renewable energy resources, or energy storage used to integrate*
15 *eligible renewable energy resources. Nothing in this clause shall*
16 *require an electrical corporation to pursue development of eligible*
17 *renewable energy resources pursuant to Section 399.14 .*

18 (iii) Procured an appropriate minimum margin of procurement
19 above the minimum procurement level necessary to comply with
20 the renewables portfolio standard to compensate for foreseeable
21 delays or insufficient supply.

22 (iv) Taken ~~all~~ reasonable measures, under the control of the
23 retail seller, to ~~remove impediments related to a compliance deficit,~~
24 ~~including the procurement of~~ *procure* cost-effective distributed
25 generation and allowable unbundled renewable energy credits.

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

28 (6) If the commission waives the ~~imposition of penalties for a~~
29 ~~retail seller's failure to achieve a procurement requirement pursuant~~
30 ~~to paragraphs (1) and (2)~~ *compliance requirements of Section*
31 *399.15*, the commission shall establish additional reporting
32 requirements on the retail seller to demonstrate that all reasonable
33 actions under the control of the retail seller are taken in each of
34 the intervening years sufficient to satisfy future procurement
35 requirements.

36 (7) The commission shall not waive the ~~imposition of penalties~~
37 ~~associated with failure to satisfy a procurement requirement~~
38 ~~pursuant to paragraphs (1) and (2)~~ unless the retail seller presents
39 evidence that it has made material progress towards meeting the
40 applicable renewables portfolio standard procurement requirement

1 ~~and has taken all reasonable actions under its control to remove~~
2 ~~impediments to enforcement pursuant to Section 399.15, unless~~
3 ~~the retail seller demonstrates that it has taken all reasonable~~
4 ~~actions under its control, as set forth in paragraph (5), to achieve~~
5 full compliance.

6 (8) If a retail seller fails to procure sufficient eligible renewable
7 energy resources to comply with a procurement requirement
8 pursuant to paragraphs (1) and (2) and fails to obtain an order from
9 the commission ~~waiving the imposition of penalties enforcement~~
10 pursuant to paragraph (5), the commission shall exercise its ~~penalty~~
11 authority pursuant to Section 2113.

12 (9) ~~If the commission either waives the imposition of penalties~~
13 ~~or assesses penalties pursuant to this section, deficits~~ *Deficits*
14 associated with the compliance period shall not be added to a future
15 compliance period.

16 (c) The commission shall establish a limitation for each electrical
17 corporation on the procurement expenditures for all eligible
18 renewable energy resources used to comply with the renewables
19 portfolio standard. In establishing this limitation, the commission
20 shall rely on the following:

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

22 (2) Procurement expenditures that approximate the expected
23 cost of building, owning, and operating eligible renewable energy
24 resources.

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

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

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

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

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

38 (e) (1) No later than January 1, 2016, the commission shall
39 prepare a report to the Legislature assessing whether each electrical
40 corporation can achieve a 33-percent renewables portfolio standard

1 by December 31, 2020, and maintain that level thereafter, within
2 the adopted cost limitations. If the commission determines that it
3 is necessary to change the limitation for procurement costs incurred
4 by any electrical corporation after that date, it may propose a
5 revised cap consistent with the criteria in subdivisions (c) and (d).
6 The proposed modifications shall take effect no earlier than January
7 1, 2017.

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

11 (3) A report to be submitted pursuant to paragraph (1) shall be
12 submitted in compliance with Section 9795 of the Government
13 Code.

14 (f) If the cost limitation for an electrical corporation is
15 insufficient to support the projected costs of meeting the
16 renewables portfolio standard procurement requirements, the
17 electrical corporation may refrain from entering into new contracts
18 or constructing facilities beyond the quantity that can be procured
19 within the limitation, unless eligible renewable energy resources
20 can be procured without increasing ratepayer costs relative to the
21 procurement of conventional energy resources, including the cost
22 of mitigating emissions of greenhouse gases associated with
23 conventional generation. *exceeding a de minimis increase in rates,*
24 *consistent with the long-term procurement plan established for*
25 *the electrical corporation pursuant to Section 454.5.*

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

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

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

36 (B) Notify the appropriate policy and fiscal committees of the
37 Legislature that the electrical corporation may exceed its cost
38 limitation, and include the reasons why the electrical corporation
39 may exceed its cost limitation.

1 (h) The establishment of a renewables portfolio standard shall
2 not constitute implementation by the commission of the federal
3 Public Utility Regulatory Policies Act of 1978 (Public Law
4 95-617).

5 ~~SEC. 20.~~

6 *SEC. 19.* Section 399.16 of the Public Utilities Code is amended
7 and renumbered to read:

8 399.21. (a) The commission, by rule, shall authorize the use
9 of renewable energy credits to satisfy the renewables portfolio
10 standard procurement requirements established pursuant to this
11 article, subject to the following conditions:

12 (1) Prior to authorizing any renewable energy credit to be used
13 toward satisfying the renewables portfolio standard procurement
14 requirements, the commission and the Energy Commission shall
15 conclude that the tracking system established pursuant to
16 subdivision (c) of Section 399.25, is operational, is capable of
17 independently verifying that electricity earning the credit is
18 generated by an eligible renewable energy resource, and can ensure
19 that renewable energy credits shall not be double counted by any
20 seller of electricity within the service territory of the WECC.

21 (2) Each renewable energy credit shall be counted only once
22 for compliance with the renewables portfolio standard of this state
23 or any other state, or for verifying retail product claims in this state
24 or any other state.

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

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

37 (5) No renewable energy credits shall be created for electricity
38 generated under any electricity purchase contract executed after
39 January 1, 2005, pursuant to the federal Public Utility Regulatory
40 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Procurement

1 under the electricity purchase contracts shall be tracked through
2 the accounting system implemented by the Energy Commission
3 pursuant to subdivision (b) of Section 399.25 and count toward
4 the renewables portfolio standard obligations of the purchasing
5 retail seller.

6 (6) No renewable energy credit shall be eligible for compliance
7 with a renewables portfolio standard procurement requirement
8 ~~unless associated with electricity generated during the same~~
9 ~~compliance period in which the credit is claimed by the retail seller~~
10 ~~or local publicly owned electric utility.~~

11 ~~(7) Any additional condition that the commission determines~~
12 ~~is reasonable, unless it is retired in the tracking system established~~
13 ~~pursuant to subdivision (c) of Section 399.25 by the retail seller~~
14 ~~or local publicly owned electric utility within 36 months from the~~
15 ~~initial date of generation of the associated electricity.~~

16 (b) The commission shall allow an electrical corporation to
17 recover the reasonable costs of purchasing ~~renewable energy~~
18 ~~credits, selling, and administering renewable energy credit~~
19 ~~contracts~~ in rates.

20 ~~SEC. 21:~~

21 *SEC. 20.* Section 399.16 is added to the Public Utilities Code,
22 to read:

23 399.16. (a) Various electricity products from eligible renewable
24 energy resources located within the WECC transmission network
25 service territory shall be eligible to comply with the renewables
26 portfolio standard procurement requirements in Section 399.15.
27 These electricity products may be differentiated by their impacts
28 on the operation of the grid in supplying electricity, as well as,
29 meeting the requirements of this article.

30 (b) Consistent with the goals of procuring the least-cost and
31 best-fit electricity products from eligible renewable energy
32 resources that meet project viability principles adopted by the
33 commission pursuant to paragraph (4) of subdivision (a) of Section
34 399.13 and that provide the benefits set forth in Section 399.11, a
35 balanced portfolio of eligible renewable energy resources shall be
36 procured consisting of the following portfolio content categories:

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

39 (A) Have a first point of interconnection with a California
40 balancing authority, have a first point of interconnection with

1 distribution facilities used to serve end users within a California
2 balancing authority area, or are scheduled from the eligible
3 renewable energy resource into a California balancing authority
4 without substituting electricity from another source. The use of
5 another source to provide real-time ancillary services required to
6 maintain an hourly or sub-hourly import schedule into a California
7 balancing authority shall be permitted, but only the fraction of the
8 schedule actually generated by the eligible renewable energy
9 resource shall count toward this portfolio content category.
10 Compliance with this portfolio content category may be verified
11 by demonstrating all of the following:

12 ~~(i) The eligible renewable energy resource is scheduled into a~~
13 ~~California balancing authority.~~

14 ~~(ii) The hourly metered output of the generator matches the~~
15 ~~import schedules of electricity flow from the generator.~~

16 ~~(iii) The schedule includes paths through the balancing authority~~
17 ~~area in which the generating resource is located, and if applicable,~~
18 ~~through any intermediate balancing authority areas, into the~~
19 ~~California balancing authority.~~

20 (B) Have an agreement to dynamically transfer electricity to a
21 California balancing authority.

22 (2) Firmed and shaped eligible renewable energy resource
23 electricity products providing incremental electricity and scheduled
24 into a California balancing authority.

25 (3) Eligible renewable energy resource electricity products, or
26 any fraction of the electricity generated, including unbundled
27 renewable energy credits, that do not qualify under the criteria of
28 paragraph (1) or (2).

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

32 (1) Not less than ~~75 percent~~ *50 percent for the compliance*
33 *period ending December 31, 2013, 65 percent for the compliance*
34 *period ending December 31, 2016, and 75 percent thereafter* of
35 the eligible renewable energy resource electricity products
36 associated with contracts executed after June 1, 2010, shall meet
37 the product content requirements of paragraph (1) of subdivision
38 (b).

39 (2) Not more than ~~10 percent~~ *25 percent for the compliance*
40 *period ending December 31, 2013, 15 percent for the compliance*

1 *period ending December 31, 2016, and 10 percent thereafter of*
2 *the eligible renewable energy resource electricity products*
3 *associated with contracts executed after June 1, 2010, shall meet*
4 *the product content requirements of paragraph (3) of subdivision*
5 *(b).*

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

10 (d) Any contract *or ownership agreement* originally executed
11 prior to June 1, 2010, shall count in full towards the procurement
12 requirements established ~~by the commission pursuant to Section~~
13 ~~399.15 pursuant to this article~~, if all of the following conditions
14 are met:

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

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

19 (3) Any contract amendments or modifications occurring after
20 June 1, 2010, do not increase the ~~capacity or expected quantities~~
21 ~~or electricity nameplate capacity or expected quantities of annual~~
22 ~~generation~~, or substitute a different renewable energy resource.
23 The duration of the contract may be extended if the original
24 contract specified a procurement commitment of 15 or more years.

25 (e) *A retail seller may apply to the commission for a reduction*
26 *of a procurement content requirement of subdivision (c). The*
27 *commission may reduce a procurement content requirement of*
28 *subdivision (c) to the extent the retail seller demonstrates that it*
29 *cannot comply with that subdivision because of conditions beyond*
30 *the control of the retail seller as provided in paragraph (5) of*
31 *subdivision (b) of Section 399.15. Under no circumstances may*
32 *the commission reduce the obligation specified in paragraph (1)*
33 *of subdivision (c) below 65 percent for any compliance obligation*
34 *after December 31, 2016.*

35 ~~SEC. 22.~~

36 *SEC. 21* Section 399.17 of the Public Utilities Code is amended
37 to read:

38 399.17. (a) (1) Subject to the provisions of this section, the
39 requirements of this article apply to an electrical corporation ~~with~~
40 *that as of January 1, 2010, had 60,000 or fewer customer accounts*

1 in California and ~~that either serves retail end-use customers outside~~
2 ~~California or that is met either of the following requirements:~~

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

4 (B) *Was located in a control area that is not under the operational*
5 *balancing authority of the Independent System Operator or other*
6 *California balancing authority and receives the majority of its*
7 *electrical requirements from generating facilities located outside*
8 *of California.*

9 ~~(b) For an electrical corporation with 60,000 or fewer customer~~
10 ~~accounts in California and that either serves retail end-use~~
11 ~~customers outside California, or that is located in a control area~~
12 ~~that is not under the balancing authority of the Independent System~~
13 ~~Operator or other California balancing authority and receives the~~
14 ~~majority of its electrical requirements from generating facilities~~
15 ~~located outside of California;~~

16 (2) *The provisions of this section apply to a successor entity to*
17 *all or a portion of the service territory of an electrical corporation*
18 *meeting the requirements of paragraph (1), but only to the extent*
19 *that the successor entity will have 60,000 or fewer customer*
20 *accounts in California.*

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

30 (1) ~~The~~ *Any portion of the electricity generated by the facility*
31 *and allocated by the electrical corporation or qualifying successor*
32 *entity for its California customers, and is not used to fulfill*
33 *renewable energy procurement requirements in other states.*

34 (2) *The electrical corporation or qualifying successor entity*
35 *participates in, and complies with, the accounting system*
36 *administered by the Energy Commission pursuant to subdivision*
37 *(b) of Section 399.25.*

38 (3) *The Energy Commission verifies that the electricity*
39 *generated by the facility is eligible to meet the procurement*
40 *requirements of this article.*

1 (c) The commission shall determine the procurement
2 requirements for an electrical corporation ~~with 60,000 or fewer~~
3 ~~customer accounts in California that serves retail end-use customers~~
4 ~~outside California, or that is located in a control area that is not~~
5 ~~under the balancing authority of the Independent System Operator~~
6 ~~or other California balancing authority and receives the majority~~
7 ~~of its electricity product requirements from generating facilities~~
8 ~~located outside the state, or qualifying successor entity meeting~~
9 ~~the requirements of subdivision (a) as a specified percentage of~~
10 total kilowatthours sold by the electrical corporation to its retail
11 end-use customers in California in a compliance period.

12 (d) An electrical corporation ~~with 60,000 or fewer customer~~
13 ~~accounts in California that serves retail end-use customers outside~~
14 ~~California, or qualifying successor entity meeting the requirements~~
15 ~~of subdivision (a) may use an integrated resource plan prepared in~~
16 compliance with the requirements of another state utility regulatory
17 commission, to fulfill the requirement to prepare a renewable
18 energy procurement plan pursuant to this article, provided the plan
19 meets the requirements of Sections 399.13, 399.14, and 399.25,
20 as modified by this section.

21 (e) Procurement and administrative costs associated with
22 long-term contracts for eligible renewable energy resources
23 pursuant to this article entered into by an electrical corporation
24 ~~with 60,000 or fewer customer accounts in California that either~~
25 ~~serves retail end-use customers outside California, or that is located~~
26 ~~in a control area that is not under the operational control of the~~
27 ~~Independent System Operator and receives the majority of its~~
28 ~~electrical requirements from generating facilities located outside~~
29 ~~of California, shall be subject to the limitation established by the~~
30 ~~commission pursuant to subdivision (c) of Section 399.15. or~~
31 ~~qualifying successor entity meeting the requirements of subdivision~~
32 ~~(a) and approved by the commission, are reasonable and prudent~~
33 ~~and shall be recoverable in rates of the electrical corporation or~~
34 ~~its successor's California customers, provided the costs are not~~
35 ~~recoverable in rates in other states served by the electrical~~
36 ~~corporation.~~

37 (f) Procurement expenditures for electricity products from
38 eligible renewable energy resources pursuant to this section by
39 an electrical corporation or successor entity meeting the
40 requirements of subdivision (a) shall be subject to a limitation on

1 *procurement expenditures established by the commission pursuant*
 2 *to subdivision (c) of Section 399.15.*

3 *SEC. 22. Section 399.18 is added to the Public Utilities Code,*
 4 *to read:*

5 *399.18. (a) The provisions of this section apply to an electrical*
 6 *corporation that as of January 1, 2010, met either of the following*
 7 *conditions:*

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

11 *(2) Had 1,000 or fewer customer accounts in California and*
 12 *was not connected to any transmission system or to the California*
 13 *Independent System Operator.*

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

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

22 *(2) The Energy Commission verifies that the electricity*
 23 *generated by the facility is eligible to meet the requirements of*
 24 *Section 399.15.*

25 ~~*SEC. 23. Section 399.18 is added to the Public Utilities Code,*~~
 26 ~~*to read:*~~

27 ~~*399.18.—*~~

28 *SEC. 23. Section 399.19 is added to the Public Utilities Code,*
 29 *to read:*

30 *399.19. The commission, in consultation with the Energy*
 31 *Commission, shall report to the Legislature by January 1 of every*
 32 *even-numbered year on all of the following:*

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

35 *(b) The status of permitting and siting eligible renewable energy*
 36 *resources and transmission facilities necessary to supply electricity*
 37 *generated to load, including the time taken to permit each eligible*
 38 *renewable energy resource and transmission line or upgrade,*
 39 *explanations of failures to meet permitting milestones, and*

1 recommendations for improvements to expedite permitting and
2 siting processes.

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

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

9 *SEC. 24. Section 399.20 of the Public Utilities Code is amended*
10 *to read:*

11 399.20. (a) It is the policy of this state and the intent of the
12 Legislature to encourage electrical generation from eligible
13 renewable energy resources.

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

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

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

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

24 (4) Is an eligible renewable energy resource.

25 (c) Every electrical corporation shall file with the commission
26 a standard tariff for electricity purchased from an electric
27 generation facility. The commission may modify or adjust the
28 requirements of this section for any electrical corporation with less
29 than 100,000 service connections, as individual circumstances
30 merit.

31 (d) (1) The tariff shall provide for payment for every
32 kilowatthour of electricity purchased from an electric generation
33 facility for a period of 10, 15, or 20 years, as authorized by the
34 commission. The payment shall be the market price determined
35 by the commission pursuant to Section 399.15, *as it existed on*
36 *January 1, 2010*, and shall include all current and anticipated
37 environmental compliance costs, including, but not limited to,
38 mitigation of emissions of greenhouse gases and air pollution
39 offsets associated with the operation of new generating facilities

1 in the local air pollution control or air quality management district
2 where the electric generation facility is located.

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

6 (3) The commission shall ensure, with respect to rates and
7 charges, that ratepayers that do not receive service pursuant to the
8 tariff are indifferent to whether a ratepayer with an electric
9 generation facility receives service pursuant to the tariff.

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

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

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

32 (h) Every kilowatthour of electricity purchased from an electric
33 generation facility shall count toward meeting the electrical
34 corporation's renewables portfolio standard annual procurement
35 targets for purposes of paragraph (1) of subdivision (b) of Section
36 399.15.

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

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

6 (2) The commission may reduce the three megawatt capacity
7 limitation of paragraph (1) of subdivision (b) if the commission
8 finds that a reduced capacity limitation is necessary to maintain
9 system reliability within that electrical corporation's service
10 territory.

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

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

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

33 (l) An owner or operator of an electric generation facility
34 electing to receive service under a tariff or contract approved by
35 the commission shall continue to receive service under the tariff
36 or contract until either of the following occurs:

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

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

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

12 (n) An electrical corporation may deny a tariff request pursuant
13 to this section if the electrical corporation makes any of the
14 following findings:

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

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

19 (3) The electric generation facility does not meet all applicable
20 state and local laws and building standards, and utility
21 interconnection requirements.

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

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

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

38 (q) The contract between the electric generation facility
39 receiving the tariff and the electrical corporation shall contain
40 provisions that ensure that construction of the electric generating

1 facility complies with all applicable state and local laws and
2 building standards, and utility interconnection requirements.

3 (r) (1) All construction and installation of facilities of the
4 electrical corporation, including at the point of the output meter
5 or at the transmission or distribution grid, shall only be performed
6 by that electrical corporation.

7 (2) All interconnection facilities installed on the electrical
8 corporation's side of the transfer point for electricity between the
9 electrical corporation and the electrical conductors of the electric
10 generation facility shall be owned, operated, and maintained only
11 by the electrical corporation. The ownership, installation, operation,
12 reading, and testing of revenue metering equipment for electric
13 generating facilities shall only be performed by the electrical
14 corporation.

15 ~~SEC. 24.~~

16 *SEC. 25.* Section 399.26 is added to the Public Utilities Code,
17 to read:

18 399.26. (a) In order for the state to meet the requirements of
19 the California Renewables Portfolio Standard Program,
20 substantially increased amounts of electricity generated by eligible
21 renewable energy resources must be integrated with, and
22 interconnected to, the transmission grid that is either owned by,
23 or under the operational control of, the local publicly owned
24 electric utilities and the transmission grid that is under the
25 operational control of the Independent System Operator.

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

28 (1) Work cooperatively to integrate and interconnect eligible
29 renewable energy resources to the transmission grid by the most
30 efficient means possible with the goal of minimizing the impact
31 and cost of new transmission needed to meet both reliability needs
32 and the renewables portfolio standard procurement requirements.

33 (2) Accomplish the requirements of paragraph (1) in a manner
34 that respects the ownership, business, and dispatch models for
35 transmission facilities owned by electrical corporations, local
36 publicly owned electric utilities, joint powers agencies, and
37 ~~merchant~~ *independent* transmission companies.

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

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

11 ~~SEC. 25.~~

12 *SEC. 26.* Section 399.30 is added to the Public Utilities Code,
13 to read:

14 399.30. (a) In order to fulfill unmet long-term generation
15 resource needs, each local publicly owned electric utility shall
16 adopt and implement a renewable energy resources procurement
17 plan that requires the utility to procure a minimum quantity of
18 electricity products from eligible renewable energy resources,
19 including renewable energy credits, as a specified percentage of
20 total kilowatthours sold to the utility's retail end-use customers,
21 each compliance period, to achieve the targets of subdivision (c).

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

26 (1) January 1, ~~2011~~, to December 31, 2013, inclusive.

27 (2) January 1, 2014, to December 31, 2016, inclusive.

28 (3) January 1, 2017, to December 31, 2020, inclusive.

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

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

35 (2) The quantities of eligible renewable energy resources to be
36 procured for all other compliance periods reflect reasonable
37 progress in each of the intervening years sufficient to ensure that
38 the procurement of electricity products from eligible renewable
39 energy resources achieves 25 percent of retail sales by December
40 31, 2016, and 33 percent of retail sales by December 31, 2020.

1 The local governing board shall require the local publicly owned
2 utilities to procure not less than 33 percent of retail sales of
3 electricity products from eligible renewable energy resources in
4 all subsequent years.

5 ~~(3) The procurement requirements of Section 399.16 apply to~~
6 ~~the local publicly owned electric utility to the same extent as to a~~
7 ~~retail seller.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~(o). The regulations shall include provisions for determining the
22 reasonableness of any cost containment mechanism implemented
23 by local publicly owned electric utilities.~~

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

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

1 Chapter 1.5 (commencing with Section 43025) of Part 5 of,
2 Division 26 of the Health and Safety Code.

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

6 (4) If the State Air Resources Board has imposed a penalty upon
7 a local publicly owned electric utility for the utility's failure to
8 comply with this article, the State Air Resources Board shall not
9 impose an additional penalty for the same infraction, or the same
10 failure to comply, with any renewables procurement requirement
11 imposed upon the utility pursuant to the California Global Warming
12 Solutions Act of 2006 (Division 25.5 (commencing with Section
13 38500) of the Health and Safety Code).

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

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

23 ~~SEC. 26.~~

24 *SEC. 27.* Section 399.31 is added to the Public Utilities Code,
25 to read:

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

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

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

1 ~~SEC. 27.~~

2 SEC. 28. Section 454.5 of the Public Utilities Code is amended
3 to read:

4 454.5. (a) The commission shall specify the allocation of
5 electricity, including quantity, characteristics, and duration of
6 electricity delivery, that the Department of Water Resources shall
7 provide under its power purchase agreements to the customers of
8 each electrical corporation, which shall be reflected in the electrical
9 corporation's proposed procurement plan. Each electrical
10 corporation shall file a proposed procurement plan with the
11 commission not later than 60 days after the commission specifies
12 the allocation of electricity. The proposed procurement plan shall
13 specify the date that the electrical corporation intends to resume
14 procurement of electricity for its retail customers, consistent with
15 its obligation to serve. After the commission's adoption of a
16 procurement plan, the commission shall allow not less than 60
17 days before the electrical corporation resumes procurement
18 pursuant to this section.

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

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

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

32 (3) The duration of the plan.

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

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

39 (6) An incentive mechanism, if any incentive mechanism is
40 proposed, including the type of transactions to be covered by that

1 mechanism, their respective procurement benchmarks, and other
2 parameters needed to determine the sharing of risks and benefits.

3 (7) The upfront standards and criteria by which the acceptability
4 and eligibility for rate recovery of a proposed procurement
5 transaction will be known by the electrical corporation prior to
6 execution of the transaction. This shall include an expedited
7 approval process for the commission's review of proposed contracts
8 and subsequent approval or rejection thereof. The electrical
9 corporation shall propose alternative procurement choices in the
10 event a contract is rejected.

11 (8) Procedures for updating the procurement plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (2) Eliminate the need for after-the-fact reasonableness reviews
39 of an electrical corporation's actions in compliance with an
40 approved procurement plan, including resulting electricity

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

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

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

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

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

39 (f) The commission may engage an independent consultant or
40 advisory service to evaluate risk management and strategy. The

1 reasonable costs of any consultant or advisory service is a
2 reimbursable expense and eligible for funding pursuant to Section
3 631.

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

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

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

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

36 (2) Any electrical corporation's procurement necessitated as a
37 result of the divestiture of generation assets on or after the effective
38 date of the act adding this subdivision shall be subject to the
39 mechanisms and procedures set forth in this section only if its

1 actual cost is less than the recent historical cost of the divested
2 generation assets.

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

6 ~~SEC. 28.~~

7 SEC. 29. Article 11 (commencing with Section 910) is added
8 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,
9 to read:

10

11 Article 11. Reports

12

13 910. (a) The commission shall, on an annual basis by February
14 1 of each year, prepare and submit to the policy and fiscal
15 committees of the Legislature a written report summarizing the
16 following information:

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

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

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

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

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

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

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

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

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

25 ~~SEC. 29.~~

26 *SEC. 30.* Section 1005.1 is added to the Public Utilities Code,
27 to read:

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

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

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

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

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

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

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

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

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

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

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

20 (b) An extension of time may be granted by the commission if
21 it finds the extension is necessary for completion of review
22 pursuant to the California Environmental Quality Act (Division
23 13 (commencing with Section 21000) of the Public Resources
24 Code).

25 ~~SEC. 30.~~

26 *SEC. 31.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 certain costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

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

1 ~~SEC. 31.~~

2 *SEC. 32.* The sum of three hundred twenty-two thousand dollars
3 (\$322,000) is hereby appropriated from the Public Utilities
4 Commission Utilities Reimbursement Account to the Public
5 Utilities Commission for additional staffing to identify, review,
6 and approve transmission lines reasonably necessary or appropriate
7 to facilitate achievement of the renewables portfolio standard
8 established in Article 16 (commencing with Section 399.11) of
9 Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

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