

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1900

**Introduced by Assembly Member Members Gatto and
Roger Hernández
(Coauthor: Assembly Member Gordon)**

February 22, 2012

An act to amend Sections 25420 and 25421 of the Health and Safety Code, to amend Sections 25741, 25746, and 25751 of the Public Resources Code, and to amend Sections 399.17, 399.18, 399.21, and 399.25 of, and to add Sections 399.24 and 769 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Gatto. Renewable energy resources: biomethane.

Existing law requires the Public Utilities Commission (PUC) to specify the maximum amount of vinyl chloride that may be found in landfill gas. Existing law prohibits a gas producer from knowingly selling, supplying, or transporting to a gas corporation, and a gas corporation from knowingly purchasing, landfill gas containing vinyl chloride in a concentration exceeding the maximum amount determined by the ~~commission~~ PUC. Existing law requires a person who produces, sells, supplies, or releases landfill gas for sale offsite to a gas corporation to sample and test, bimonthly, the gas at the point of distribution for chemicals known to the state to cause cancer or reproductive toxicity.

This bill would ~~provide that the PUC's duty to specify the maximum amount of vinyl chloride that may be found in landfill gas applies to gas that is to be injected into a common carrier pipeline~~ *require the*

PUC to identify all constituents that may be found in landfill gas that is to be injected into a common carrier pipeline and that could adversely impact the health and safety of the public, and to specify the maximum amount of those constituents that may be found in that landfill gas. This bill would require the PUC to develop reasonable, and prudent, and ~~minimally restrictive~~ testing protocols for gas collected from a solid waste landfill that is to be injected into a common carrier pipeline to determine if the gas contains ~~chemicals known to the state to cause cancer or reproductive toxicity~~ any of the identified constituents at levels that exceed the standards set by the PUC. This bill would prohibit a gas producer from knowingly selling, supplying, transporting, or purchasing gas collected from a hazardous waste landfill.

~~This bill would require the PUC, by January 1, 2014, to establish a program that requires electrical corporations to collectively enter into at least 5 contracts to procure biomethane through intrastate common carrier pipelines, as specified.~~

This bill would require the PUC to consider adopting pilot projects involving the injection of biomethane into common carrier pipelines where a project satisfies certain safety, quality, and efficiency requirements, as specified. This bill would require the PUC to adopt policies and programs that promote the in-state production and distribution of biomethane.

Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources that it determines meet specified statutory criteria.

This bill would require the Energy Commission to establish ~~a revised precertification system and certification procedures~~ *and certification procedures* for facilities that are not yet operational and are applying for certification as eligible renewable energy resources. This bill would allow the Energy Commission, in establishing the ~~precertification system and certification procedures~~, to establish conditions for certification. This bill would require the Energy Commission to certify a facility if, after becoming operational, the facility meets all of the conditions established in the precertification approval. The Energy Commission would not be permitted to alter these conditions retroactively, unless doing so is necessary for *reasons specific to the health and safety of the public*. This bill would apply retroactively to all Energy Commission ~~precertifications and certifications of a facility as an eligible renewable energy resource where an~~ *if the facility's eligibility as an eligible*

renewable energy resource is based on the use of landfill gas or digester gas that is delivered to the facility through a common carrier pipeline, and the owner or operator of the facility executed a contract for procurement of a renewable source of energy, as defined, before January 1, 2013. This bill would require the Energy Commission to review an application for certification of a facility as an eligible renewable energy resource based on the rules related to the use of pipeline biomethane contained in the Energy Commission's Committee Draft, Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition, as prescribed. This bill would also require the Energy Commission, in certifying or precertifying an eligible renewable energy resource utilizing biomethane, to certify facilities a facility using biomethane according to biomethane source categories, as specified. This bill would also require the Energy Commission to ensure that the operator of a facility seeking certification purchasing dedicated biomethane demonstrates that the biomethane is injected into a pipeline that is directly connected to an interstate pipeline system that, at the time of the execution of the biomethane procurement contract, regularly provides natural gas to the facility that contracts for that dedicated biomethane.

Existing law requires the Energy Commission to design and implement an accounting system to verify compliance with the California Renewables Portfolio Standard Program requirements by retail sellers and local publicly owned electric utilities.

This bill would require the Energy Commission to design and implement an accounting system to ensure that consumption of biomethane and the resulting electrical products are counted a total of one time for the purpose of meeting the renewables portfolio standard requirements and receiving greenhouse gas benefits, as provided by the laws of this state or any other state, or by the laws of any other country.

Existing law allows the PUC to set heating and purity requirements for biomethane injected into a gas pipeline. Existing law allows gas corporations to impose tariffs on biomethane injected into their pipelines.

~~This bill would require a gas corporation to accept biomethane into its pipeline, provided the biomethane meets the heating and purity requirements established by the commission. This bill would provide that a gas corporation tariff that restricts biomethane that meets the heating and purity requirements established by the commission is invalid and reenforceable. This bill would prohibit a gas corporation from proposing a tariff that restricts biomethane that meets the heating and purity requirements established by the commission.~~

This bill would require the PUC to adopt pipeline access rules that are the substantial equivalent of Rule 39 of San Diego Gas and Electric Company’s Gas Tariff Rule Book to ensure that each gas corporation provides nondiscriminatory open access to its gas pipeline system to any party for the purpose of physically interconnecting with the gas pipeline system and effectuating the delivery of gas.

This bill would make other conforming changes.

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 this bill would require action by the PUC to implement certain of its requirements, a violation of which would be a crime, these provisions would impose a state-mandated local program by creating a new crime.

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: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 25420 of the Health and Safety Code is
2 amended to read:
3 25420. For purposes of this chapter, the following definitions
4 apply:
5 (a) “Commission” means the Public Utilities Commission.
6 ~~(a) “Dedicated use of gas by an eligible renewable energy~~
7 ~~resource”~~
8 (b) “Delivery of landfill gas by dedicated pipeline” means ~~the~~
9 ~~use of~~ gas captured at a solid waste facility and transported from
10 ~~the site where the gas is captured~~ that site to an eligible renewable
11 energy resource, as defined in the California Renewables Portfolio
12 Standard Program (Article 16 (commencing with Section 399.11)
13 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code),
14 that utilizes best available control technology for the control of air
15 pollutants, using a pipeline that is not a common carrier pipeline
16 used to transport natural gas to customers other than the eligible

1 renewable energy resource, *or otherwise subject to the jurisdiction*
2 *of the commission.*

3 ~~(b)~~

4 (c) “Department” means the Department of Toxic Substances
5 Control.

6 ~~(e)~~

7 (d) “Gas corporation” has the same meaning as defined in
8 Section 222 of the Public Utilities Code and is subject to rate
9 regulation by the ~~Public Utilities Commission~~ *commission.*

10 ~~(d)~~

11 (e) “Hazardous waste landfill” means a landfill that is a
12 hazardous waste facility, as defined in Section 25117.1.

13 ~~(e)~~

14 (f) “Person” means an individual, trust, firm, joint stock
15 company, partnership, association, business concern, limited
16 liability company, or corporation. “Person” also includes any city,
17 county, district, and the state or any department or agency thereof,
18 or the federal government or any department or agency thereof to
19 the extent permitted by law.

20 ~~(f)~~

21 (g) “Solid waste landfill” means a landfill that is a solid waste
22 facility, as defined in Section 40194 of the Public Resources Code,
23 or at which solid waste, as defined in Section 40191 of the Public
24 Resources Code, is disposed.

25 SEC. 2. Section 25421 of the Health and Safety Code is
26 amended to read:

27 ~~25421. (a) (1) The Public Utilities Commission~~ *commission*
28 *shall, by rule or order, specify the maximum amount of vinyl*
29 *chloride that may be found in landfill gas that is to be injected into*
30 *a common carrier pipeline. The maximum amount adopted by the*
31 *commission shall not exceed the no significant risk level set in*
32 *Section 25705 of Title 27 of the California Code of Regulations.*
33 *identify all constituents that may be found in landfill gas that is to*
34 *be injected into a common carrier pipeline and that could adversely*
35 *impact the health and safety of the public. Potential impacts*
36 *include, but are not limited to, health and safety hazards to utility*
37 *employees or to the general public, damage to pipeline facilities,*
38 *and other impacts that may inhibit the marketability of gas.*

39 (2) *The commission shall, by rule or order, specify the maximum*
40 *amount of constituents identified pursuant to paragraph (1) that*

1 *may be found in landfill gas that is to be injected into a common*
2 *carrier pipeline. The maximum amount adopted by the commission*
3 *shall not exceed the no significant risk level set in Section 25705*
4 *of Title 27 of the California Code of Regulations for constituents*
5 *that are specified in that section.*

6 ~~(2)~~

7 (3) This subdivision does not require the commission to revise
8 any standard in effect on the effective date of this paragraph.

9 ~~(b) A gas corporation shall not knowingly and intentionally~~
10 ~~expose any customer, employee, or other person to landfill gas if~~
11 ~~that gas contains any chemical known to the state to cause cancer~~
12 ~~or reproductive toxicity without first giving clear and reasonable~~
13 ~~warning to that individual, except as provided by Section 25249.10.~~
14 *The commission shall make findings that are sufficient to ensure*
15 *that the standards adopted pursuant to subdivision (a) do not do*
16 *either of the following:*

17 (1) *Expose any customer, employee, or other person to landfill*
18 *gas if that gas contains any chemical known to the state to cause*
19 *cancer or reproductive toxicity without first giving clear and*
20 *reasonable warning to that individual, except as provided by*
21 *Section 25249.10.*

22 (2) *Expose a natural gas pipeline to an unreasonable risk of*
23 *harm to pipeline integrity.*

24 (c) ~~The Public Utilities Commission~~ *commission* shall develop
25 ~~reasonable, and prudent, and minimally restrictive~~ testing protocols
26 for gas collected from a solid waste landfill that is to be injected
27 into a common carrier pipeline to determine if the gas contains
28 ~~chemicals known to the state to cause cancer or reproductive~~
29 ~~toxicity in accordance with the test guidelines prepared under~~
30 ~~Section 41805.5~~ *any of the constituents that the commission has*
31 *identified pursuant to subdivision (a) at levels that exceed the*
32 *standards set by the commission.*

33 (1) In developing the protocols, ~~the Public Utilities Commission~~
34 *commission* shall consider environmental protection, the protection
35 of public health and safety, and the environmental cobenefits of
36 achieving the renewables portfolio standard and of promoting the
37 use of landfill gases that otherwise would be flared by, instead,
38 directing the landfill gases to a productive use.

39 (2) Every person who produces, sells, supplies, or releases gas
40 collected at a solid waste landfill, that is to be injected into a

1 common carrier pipeline for sale offsite to a gas corporation or
2 noncore customer, shall comply with the standards and testing
3 protocols set by the ~~Public Utilities Commission~~ *commission*.

4 (d) (1) A gas producer shall ~~not knowingly sell, supply, or~~
5 ~~transport~~ *ensure that* landfill gas ~~to a~~ *it seeks to inject into a*
6 *pipeline satisfies the standards set by the commission pursuant to*
7 *subdivision (a)*. A gas corporation, ~~and a gas corporation~~ shall
8 *administer testing protocols consistent with those standards, and*
9 *shall not knowingly purchase landfill gas, unless that gas meets*
10 *the requirement set forth in a rule or order issued pursuant to*
11 *subdivision (a) accept landfill gas that does not satisfy those*
12 *standards.*

13 (2) A gas producer shall not knowingly sell, supply, or transport
14 gas collected from a hazardous waste landfill to a gas corporation.
15 A gas corporation shall not knowingly purchase gas collected from
16 a hazardous waste landfill.

17 (e) This section does not prohibit the onsite usage of landfill
18 gas for the generation of electricity *or any other onsite productive*
19 *use* by an eligible renewable energy resource, *or* the delivery of
20 landfill gas by ~~either a dedicated or common carrier~~ pipeline for
21 the generation of electricity, the production of steam, or *any other*
22 *productive use or other industrial applications.*

23 (f) ~~A gas corporation shall obtain the results of the test~~
24 ~~conducted pursuant to subdivision (c) and shall not purchase or~~
25 ~~accept for transport any landfill gas that the test shows to contain~~
26 ~~vinyl chloride that exceeds the amount permitted pursuant to~~
27 ~~subdivision (a).~~

28 (g) ~~Before January 1, 2013, this section shall not apply to the~~
29 ~~dedicated use of gas by an eligible renewable energy resource for~~
30 ~~gas captured at a solid waste landfill.~~

31 SEC. 3. Section 25741 of the Public Resources Code is
32 amended to read:

33 25741. As used in this chapter, the following terms have the
34 following meaning:

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

37 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
38 geothermal, fuel cells using renewable fuels, small hydroelectric
39 generation of 30 megawatts or less, digester gas, municipal solid
40 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal

1 current, and any additions or enhancements to the facility using
2 that technology.

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

4 (A) The facility is located in the state or near the border of the
5 state with the first point of connection to the transmission network
6 of a balancing authority area primarily located within the state.
7 For purposes of this subparagraph, “balancing authority area” has
8 the same meaning as defined in Section 399.12 of the Public
9 Utilities Code.

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

14 (i) It commences initial commercial operation after January 1,
15 2005.

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

18 (iii) It participates in the accounting system to verify compliance
19 with the renewables portfolio standard once established by the
20 commission pursuant to subdivision (f) of Section 399.25 of the
21 Public Utilities Code.

22 (C) The facility meets the requirements of clauses (ii) and (iii)
23 in subparagraph (B), but does not meet the requirements of clause
24 (i) of subparagraph (B) because it commenced initial operation
25 prior to January 1, 2005, if the facility satisfies either of the
26 following requirements:

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

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

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

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

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

1 (2) The technology produces no discharges of air contaminants
2 or emissions, including greenhouse gases as defined in Section
3 38505 of the Health and Safety Code.

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

6 (4) The technology produces no hazardous wastes.

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

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

14 (7) The technology meets any other conditions established by
15 the commission.

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

22 (c) “Renewable energy public goods charge” means that portion
23 of the nonbypassable system benefits charge required to be
24 collected to fund renewable energy pursuant to the Reliable Electric
25 Service Investments Act (Article 15 (commencing with Section
26 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
27 Code).

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

32 (e) “Retail seller” means a “retail seller” as defined in Section
33 399.12 of the Public Utilities Code.

34 SEC. 4. 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 (f) of Section 399.25 of
6 the Public Utilities Code, the commission shall recover all costs
7 from user fees.

8 SEC. 5. Section 25751 of the Public Resources Code is
9 amended to read:

10 25751. (a) The Renewable Resource Trust Fund is hereby
11 created in the State Treasury.

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

14 (1) Existing Renewable Resources Account.

15 (2) Emerging Renewable Resources Account.

16 (3) Renewable Resources Consumer Education Account.

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

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

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

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

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

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

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

30 SEC. 6. Section 399.17 of the Public Utilities Code is amended
31 to read:

32 399.17. (a) (1) Subject to this section, the requirements of
33 this article apply to an electrical corporation that as of January 1,
34 2010, had 60,000 or fewer customer accounts in California and
35 met either of the following requirements:

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

37 (B) Was located in a control area that is not under the operational
38 balancing authority of the Independent System Operator or other
39 California balancing authority and receives the majority of its

1 electrical requirements from generating facilities located outside
2 of California.

3 (2) This section applies to a successor entity to all or a portion
4 of the service territory of an electrical corporation meeting the
5 requirements of paragraph (1), but only to the extent that the
6 successor entity will have 60,000 or fewer customer accounts in
7 California.

8 (b) For an electrical corporation or qualifying successor entity
9 meeting the requirements of subdivision (a), electricity products
10 from eligible renewable energy resources may be used for
11 compliance with the renewables portfolio standard procurement
12 requirements notwithstanding any procurement content limitation
13 in Section 399.16 and an eligible renewable energy resource
14 includes a facility that is located outside California, if the facility
15 is connected to the WECC transmission system, provided all of
16 the following conditions are met:

17 (1) Any portion of the electricity generated by the facility and
18 allocated by the electrical corporation or qualifying successor
19 entity for its California customers, and is not used to fulfill
20 renewable energy procurement requirements in other states.

21 (2) The electrical corporation or qualifying successor entity
22 participates in, and complies with, the accounting system
23 administered by the Energy Commission pursuant to subdivision
24 (f) of Section 399.25.

25 (3) The Energy Commission verifies that the electricity
26 generated by the facility is eligible to meet the procurement
27 requirements of this article.

28 (c) The commission shall determine the procurement
29 requirements for an electrical corporation or qualifying successor
30 entity meeting the requirements of subdivision (a) as a specified
31 percentage of total kilowatthours sold by the electrical corporation
32 to its retail end-use customers in California in a compliance period.

33 (d) An electrical corporation or qualifying successor entity
34 meeting the requirements of subdivision (a) may use an integrated
35 resource plan prepared in compliance with the requirements of
36 another state utility regulatory commission, to fulfill the
37 requirement to prepare a renewable energy procurement plan
38 pursuant to this article, provided the plan meets the requirements
39 of Sections 399.13, 399.14, and 399.25, as modified by this section.

1 (e) Procurement and administrative costs associated with
2 long-term contracts for eligible renewable energy resources
3 pursuant to this article entered into by an electrical corporation or
4 qualifying successor entity meeting the requirements of subdivision
5 (a) and approved by the commission, are reasonable and prudent
6 and shall be recoverable in rates of the electrical corporation or its
7 successor's California customers, provided the costs are not
8 recoverable in rates in other states served by the electrical
9 corporation.

10 (f) Procurement expenditures for electricity products from
11 eligible renewable energy resources pursuant to this section by an
12 electrical corporation or successor entity meeting the requirements
13 of subdivision (a) shall be subject to a limitation on procurement
14 expenditures established by the commission pursuant to subdivision
15 ~~(h)~~ (c) of Section 399.15.

16 SEC. 7. Section 399.18 of the Public Utilities Code is amended
17 to read:

18 399.18. (a) This section applies to an electrical corporation
19 that as of January 1, 2010, met either of the following conditions:

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

23 (2) Had 1,000 or fewer customer accounts in California and was
24 not connected to any transmission system or to the California
25 Independent System Operator.

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

31 (1) The electrical corporation or its successor participates in,
32 and complies with, the accounting system administered by the
33 Energy Commission pursuant to subdivision (f) of Section 399.25.

34 (2) The Energy Commission verifies that the electricity
35 generated by the facility is eligible to meet the requirements of
36 Section 399.15.

37 SEC. 8. Section 399.21 of the Public Utilities Code is amended
38 to read:

39 399.21. (a) The commission, by rule, shall authorize the use
40 of renewable energy credits to satisfy the renewables portfolio

1 standard procurement requirements established pursuant to this
2 article, subject to the following conditions:

3 (1) Prior to authorizing any renewable energy credit to be used
4 toward satisfying the renewables portfolio standard procurement
5 requirements, the commission and the Energy Commission shall
6 conclude that the tracking system established pursuant to
7 subdivision (h) of Section 399.25, is operational, is capable of
8 independently verifying that electricity earning the credit is
9 generated by an eligible renewable energy resource, and can ensure
10 that renewable energy credits shall not be double counted by any
11 seller of electricity within the service territory of the WECC.

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

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

19 (4) Renewable energy credits shall not be created for electricity
20 generated pursuant to any electricity purchase contract with a retail
21 seller or a local publicly owned electric utility executed before
22 January 1, 2005, unless the contract contains explicit terms and
23 conditions specifying the ownership or disposition of those credits.
24 Procurement under those contracts shall be tracked through the
25 accounting system described in subdivision (f) of Section 399.25
26 and included in the quantity of eligible renewable energy resources
27 of the purchasing retail seller pursuant to Section 399.15.

28 (5) Renewable energy credits shall not be created for electricity
29 generated under any electricity purchase contract executed after
30 January 1, 2005, pursuant to the federal Public Utility Regulatory
31 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Procurement
32 under the electricity purchase contracts shall be tracked through
33 the accounting system implemented by the Energy Commission
34 pursuant to subdivision (f) of Section 399.25 and count toward the
35 renewables portfolio standard procurement requirements of the
36 purchasing retail seller.

37 (6) A renewable energy credit shall not be eligible for
38 compliance with a renewables portfolio standard procurement
39 requirement unless it is retired in the tracking system established
40 pursuant to subdivision (h) of Section 399.25 by the retail seller

1 or local publicly owned electric utility within 36 months from the
2 initial date of generation of the associated electricity.

3 (b) The commission shall allow an electrical corporation to
4 recover the reasonable costs of purchasing, selling, and
5 administering renewable energy credit contracts in rates.

6 SEC. 9. Section 399.24 is added to the Public Utilities Code,
7 to read:

8 ~~399.24. (a) By January 1, 2014, the commission shall establish~~
9 ~~a program that requires electrical corporations to collectively enter~~
10 ~~into at least five contracts to procure biomethane through intrastate~~
11 ~~common carrier pipelines, subject to all of the following:~~

12 ~~(1) None of these contracts shall replace an existing,~~
13 ~~substantially similar agreement.~~

14 ~~(2) Each contract shall result in new displacement of natural~~
15 ~~gas.~~

16 ~~(3) At least two of the contracts shall be for landfill gas.~~

17 ~~(4) Each contract shall be executed by January 1, 2015.~~

18 ~~(b) The commission shall ensure that an electrical corporation~~
19 ~~recovers its reasonable costs incurred as a result of participating~~
20 ~~in a contract pursuant to subdivision (a).~~

21 ~~(c) For the purposes of this section, "biomethane" means~~
22 ~~methane not derived, in whole or in part, from fossil fuels.~~
23 ~~"Biomethane" includes landfill gas, digester gas, wastewater gas,~~
24 ~~and municipal solid waste conversion.~~

25 *399.24. (a) The commission shall consider adopting pilot*
26 *projects that satisfy all of the following requirements:*

27 *(1) Are capable of being safely implemented.*

28 *(2) Demonstrate the accuracy of the commission's testing*
29 *protocols established pursuant to subdivision (a) of Section 25421*
30 *of the Health and Safety Code.*

31 *(3) Demonstrate the level of consistency of the quality of gas*
32 *injected into the gas pipeline system.*

33 *(4) Demonstrate the capacity of biomethane to be procured at*
34 *the lowest cost and best fit.*

35 *(b) To fill the energy and transportation needs of the state, the*
36 *commission shall adopt policies and programs that promote the*
37 *in-state production and distribution of biomethane. The policies*
38 *and programs shall facilitate the development of a variety of*
39 *sources of in-state biomethane.*

1 SEC. 10. Section 399.25 of the Public Utilities Code is
2 amended to read:

3 399.25. The Energy Commission shall do all of the following:

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

6 (b) (1) Establish—~~a revised precertification—system and~~
7 *certification procedures* for facilities that are not yet operational
8 and are applying for certification as eligible renewable energy
9 resources. In establishing—~~this these precertification—system and~~
10 *certification procedures*, the Energy Commission may, consistent
11 with the criteria described in subdivision (e) of Section 399.12 *and*
12 *subparagraph (1) of subdivision (b) of Section 399.16*, establish
13 conditions for the certification of a facility as an eligible renewable
14 energy resource when the facility becomes operational. If, after
15 becoming operational, the facility meets all of the conditions
16 established in the precertification approval, the Energy Commission
17 shall certify the facility as an eligible renewable energy resource.
18 The Energy Commission shall not retroactively alter the conditions
19 for certification established in a precertification approval of a
20 facility applying for certification as an eligible renewable energy
21 resource, unless doing so is necessary for *reasons specific to the*
22 *health and safety of the public.*

23 (2) Paragraph (1) shall apply retroactively to an Energy
24 Commission precertification *or certification* of a facility—~~as an~~
25 ~~eligible renewable energy resource where an owner or operator of~~
26 ~~the facility executed a contract for procurement of a renewable~~
27 ~~source of energy under paragraph (1) of subdivision (a) of Section~~
28 ~~25741 of the Public Resources Code before January 1, 2013. if~~
29 *both of the following requirements in subparagraphs (A) and (B)*
30 *are satisfied:*

31 (A) *The facility's eligibility as an eligible renewable energy*
32 *resource is based on the use of landfill gas or digester gas that is*
33 *delivered to the facility through a common carrier pipeline.*

34 (B) *The owner or operator of the facility executed a contract*
35 *for procurement of a renewable source of energy pursuant to this*
36 *section.*

37 (C) *For the purposes of eligibility under this paragraph, a*
38 *facility that is applying for certification as an eligible renewable*
39 *energy resource uses landfill or digester gas when it generates*
40 *energy that corresponds to the rights the facility obtains through*

1 *a procurement contract for directed biomethane. “A procurement*
2 *contract for directed biomethane” for purposes of this paragraph*
3 *means an agreement to transfer a quantity of energy from one*
4 *location to another in exchange for a corresponding amount of*
5 *energy, provided that all environmental attributes of the energy*
6 *are also exchanged between the parties to the contract, and the*
7 *environmental attributes are attached to the energy commodity*
8 *that is exchanged.*

9 (3) *The Energy Commission shall review an application for*
10 *certification of a facility as an eligible renewable energy resource*
11 *based on the rules related to the use of pipeline biomethane*
12 *contained in the Energy Commission’s Committee Draft,*
13 *Renewables Portfolio Standard Eligibility Guidebook, Fourth*
14 *Edition, subject to all of the following conditions:*

15 (A) *Before January 1, 2013, the owner or operator of the facility*
16 *executed a contract for procurement of biomethane pursuant to*
17 *this section.*

18 (B) *The owner or operator of the facility submitted all of the*
19 *forms the Energy Commission requires for certification to the*
20 *Energy Commission before January 1, 2013, and, at any time after*
21 *the submission, the Energy Commission acknowledges that it has*
22 *received the documents and that the documents are substantially*
23 *complete.*

24 (c) *In certifying or precertifying an eligible renewable energy*
25 *resource utilizing biomethane where the owner or operator of the*
26 *facility executed a contract for procurement of a renewable source*
27 *of energy pursuant to this section, determine which one of the*
28 *following biomethane source categories is applicable:*

29 (1) *A source of biomethane that results in new displacement of*
30 *fossil fuels and directly achieves air quality improvements in an*
31 *air basin in or affecting California.*

32 (2) *A source of biomethane that results in new displacement of*
33 *fossil fuels but does not directly achieve air quality improvements*
34 *in an air basin in or affecting California.*

35 (3) *A source of biomethane that neither results in new*
36 *displacement of fossil fuels nor directly achieves air quality*
37 *improvements in an air basin in or affecting California.*

38 (d) *Based on the applicable biomethane source category under*
39 *subdivision (c), apply the following conditions to the certification*
40 *of an eligible renewable energy resource utilizing biomethane:*

1 (1) Biomethane from a source the Energy Commission
2 determines meets the requirements of paragraph (1) of subdivision
3 (c) may be used to meet the product content requirements of
4 paragraphs (1), (2), or (3) of subdivision (b) of Section 399.16.

5 (2) Biomethane from a source the Energy Commission
6 determines meets the requirements of paragraph (2) or (3) of
7 subdivision (c) may be used to meet the product content
8 requirements of paragraph (3) of subdivision (b) of Section 399.16.

9 (e) Ensure that the operator of the facility seeking certification
10 demonstrates that the biomethane is injected into a pipeline that
11 is directly connected to an interstate pipeline system that, at the
12 time of the execution of the biomethane, procurement contract,
13 regularly provides natural gas to the facility.

14 (f) Design and implement an accounting system to verify
15 compliance with the renewables portfolio standard by retail sellers
16 and local publicly owned electric utilities, to ensure that electricity
17 generated by an eligible renewable energy resource is counted
18 only once for the purpose of meeting the renewables portfolio
19 standard of this state or any other state, to certify ~~renewable energy~~
20 ~~credits~~ *environmental attributes* produced by eligible renewable
21 energy resources, and to verify retail product claims in this state
22 or any other state. In establishing the guidelines governing this
23 accounting system, the Energy Commission shall collect data from
24 electricity market participants that it deems necessary to verify
25 compliance of retail sellers and local publicly owned electric
26 utilities, in accordance with the requirements of this article and
27 the California Public Records Act (Chapter 3.5 (commencing with
28 Section 6250) of Division 7 of Title 1 of the Government Code).
29 In seeking data from electrical corporations, the Energy
30 Commission shall request data from the commission. The
31 commission shall collect data from electrical corporations and
32 remit the data to the Energy Commission within 90 days of the
33 request.

34 (g) Design and implement an accounting system to ensure that
35 consumption of biomethane and the resulting electrical products
36 are counted a total of one time for the purpose of the renewables
37 portfolio standard requirements and receiving greenhouse gas
38 benefits, as provided by the laws of this state or any other state,
39 or by the laws of any other country.

1 (h) Establish a system for tracking and verifying ~~renewable~~
2 ~~energy credits~~ *environmental attributes* that, through the use of
3 independently audited data, verifies the generation of electricity
4 associated with each ~~renewable energy credit~~ *environmental*
5 *attribute* and protects against multiple counting of the same
6 ~~renewable energy credit~~ *environmental attributes*. The Energy
7 Commission shall consult with other western states and with the
8 WECC in the development of this system.

9 (i) Certify, for purposes of compliance with the renewables
10 portfolio standard requirements by a retail seller, the eligibility of
11 ~~renewable energy credits~~ *environmental attributes* associated with
12 eligible renewable energy resources procured by a local publicly
13 owned electric utility, if the Energy Commission determines that
14 all of the conditions of Section 399.31 have been met.

15 (j) For the purposes of this section, “biomethane” means
16 methane not derived, in whole or in part, from fossil fuels.
17 “Biomethane” includes landfill gas, digester gas; *derived from*
18 *digestion of organic material, including wastewater treatment*
19 *plant* gas; and municipal solid waste conversion.

20 SEC. 11. Section 769 is added to the Public Utilities Code, to
21 read:

22 ~~769. (a) In order to facilitate achievement of the California~~
23 ~~Renewables Portfolio Standard Program, a gas corporation shall~~
24 ~~accept biomethane into its pipeline, provided the biomethane meets~~
25 ~~the heating and purity requirements established by the commission.~~

26 ~~(b) A gas corporation tariff is invalid and shall not be enforced~~
27 ~~to the extent it restricts biomethane that meets the heating and~~
28 ~~purity requirements established by the commission.~~

29 ~~(c) A gas corporation shall not propose a tariff that restricts~~
30 ~~biomethane that meets the heating and purity requirements~~
31 ~~established by the commission.~~

32 ~~769. For each gas corporation, the commission shall adopt~~
33 ~~pipeline access rules that are the substantial equivalent of Rule~~
34 ~~39 of San Diego Gas and Electric Company’s Gas Tariff Rule~~
35 ~~Book, as was in effect on January 1, 2013, to ensure that each gas~~
36 ~~corporation provides nondiscriminatory open access to its gas~~
37 ~~pipeline system to any party for the purpose of physically~~
38 ~~interconnecting with the gas pipeline system and effectuating the~~
39 ~~delivery of gas.~~

1 SEC. 12. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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