

ASSEMBLY BILL

No. 2632

Introduced by Assembly Member Fletcher

February 24, 2012

An act to amend Section 399.15 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2632, as introduced, Fletcher. Renewable energy resources.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. The existing Renewables Portfolio Standard Program (RPS program) requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods.

This bill would make a technical, nonsubstantive revision to the procurement requirements applicable to retail sellers.

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

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

- 1 SECTION 1. Section 399.15 of the Public Utilities Code is
- 2 amended to read:
- 3 399.15. (a) In order to fulfill unmet long-term resource needs,
- 4 the commission shall establish a renewables portfolio standard

1 requiring all retail sellers to procure a minimum quantity of
2 electricity products from eligible renewable energy resources as
3 a specified percentage of total kilowatthours sold to their retail
4 end-use customers each compliance period to achieve the targets
5 established under this article. For any retail seller procuring at least
6 14 percent of retail sales from eligible renewable energy resources
7 in 2010, the deficits associated with any previous renewables
8 portfolio standard shall not be added to any procurement
9 requirement pursuant to this article.

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

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

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

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

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

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

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

37 (C) Retail sellers shall be obligated to procure no less than the
38 quantities associated with all intervening years by the end of each
39 compliance period. Retail sellers shall not be required to

1 demonstrate a specific quantity of procurement for any individual
2 intervening year.

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

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

15 (5) The commission shall waive enforcement of this section if
16 it finds that the retail seller has demonstrated any of the following
17 conditions are beyond the control of the retail seller and will
18 prevent compliance:

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

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

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

39 (B) Permitting, interconnection, or other circumstances that
40 delay procured eligible renewable energy resource projects, or

1 there is an insufficient supply of eligible renewable energy
2 resources available to the retail seller. In making a finding that this
3 condition prevents timely compliance, the commission shall
4 consider whether the retail seller has done all of the following:

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

7 (ii) Sought to develop one of the following: its own eligible
8 renewable energy resources, transmission to interconnect to eligible
9 renewable energy resources, or energy storage used to integrate
10 eligible renewable energy resources. This clause shall not require
11 an electrical corporation to pursue development of eligible
12 renewable energy resources pursuant to Section 399.14.

13 (iii) Procured an appropriate minimum margin of procurement
14 above the minimum procurement level necessary to comply with
15 the renewables portfolio standard to compensate for foreseeable
16 delays or insufficient supply.

17 (iv) Taken reasonable measures, under the control of the retail
18 seller, to procure cost-effective distributed generation and allowable
19 unbundled renewable energy credits.

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

22 (6) If the commission waives the compliance requirements of
23 this section, the commission shall establish additional reporting
24 requirements on the retail seller to demonstrate that all reasonable
25 actions under the control of the retail seller are taken in each of
26 the intervening years sufficient to satisfy future procurement
27 requirements.

28 (7) The commission shall not waive enforcement pursuant to
29 this section, unless the retail seller demonstrates that it has taken
30 all reasonable actions under its control, as set forth in paragraph
31 (5), to achieve full compliance.

32 (8) If a retail seller fails to procure sufficient eligible renewable
33 energy resources to comply with a procurement requirement
34 pursuant to paragraphs (1) and (2) and fails to obtain an order from
35 the commission waiving enforcement pursuant to paragraph (5),
36 the commission shall exercise its authority pursuant to Section
37 2113.

38 (9) Deficits associated with the compliance period shall not be
39 added to a future compliance period.

1 (c) The commission shall establish a limitation for each electrical
2 corporation on the procurement expenditures for all eligible
3 renewable energy resources used to comply with the renewables
4 portfolio standard. In establishing this limitation, the commission
5 shall rely on the following:

- 6 (1) The most recent renewable energy procurement plan.
- 7 (2) Procurement expenditures that approximate the expected
8 cost of building, owning, and operating eligible renewable energy
9 resources.
- 10 (3) The potential that some planned resource additions may be
11 delayed or canceled.

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

- 14 (1) The limitation is set at a level that prevents disproportionate
15 rate impacts.
- 16 (2) The costs of all procurement credited toward achieving the
17 renewables portfolio standard are counted towards the limitation.
- 18 (3) Procurement expenditures do not include any indirect
19 expenses, including imbalance energy charges, sale of excess
20 energy, decreased generation from existing resources, transmission
21 upgrades, or the costs associated with relicensing any utility-owned
22 hydroelectric facilities.

23 (e) (1) No later than January 1, 2016, the commission shall
24 prepare a report to the Legislature assessing whether each electrical
25 corporation can achieve a 33-percent renewables portfolio standard
26 by December 31, 2020, and maintain that level thereafter, within
27 the adopted cost limitations. If the commission determines that it
28 is necessary to change the limitation for procurement costs incurred
29 by any electrical corporation after that date, it may propose a
30 revised cap consistent with the criteria in subdivisions (c) and (d).
31 The proposed modifications shall take effect no earlier than January
32 1, 2017.

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

36 (3) A report to be submitted pursuant to paragraph (1) shall be
37 submitted in compliance with Section 9795 of the Government
38 Code.

39 (f) If the cost limitation for an electrical corporation is
40 insufficient to support the projected costs of meeting the

1 renewables portfolio standard procurement requirements, the
2 electrical corporation may refrain from entering into new contracts
3 or constructing facilities beyond the quantity that can be procured
4 within the limitation, unless eligible renewable energy resources
5 can be procured without exceeding a de minimis increase in rates,
6 consistent with the long-term procurement plan established for the
7 electrical corporation pursuant to Section 454.5.

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

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

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

18 (B) Notify the appropriate policy and fiscal committees of the
19 Legislature that the electrical corporation may exceed its cost
20 limitation, and include the reasons why the electrical corporation
21 may exceed its cost limitation.

22 (h) The establishment of a renewables portfolio standard shall
23 not constitute implementation by the commission of the federal
24 Public Utility Regulatory Policies Act of 1978 (Public Law
25 95-617), *as amended*.