

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY JUNE 21, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 843

Introduced by Senator Wolk

February 18, 2011

An act to amend Section 25019 of the Corporations Code, and to amend Sections 216 and 218 of, to repeal Section 2826.5 of, and to repeal and add Chapter 7.5 (commencing with Section 2830) of Part 2 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 843, as amended, Wolk. Energy: electrical corporations: City of Davis PVUSA solar facility: Community-Based Renewable Energy Self-Generation Program.

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, the local government renewable energy self-generation program authorizes a local government, as defined, to receive a bill credit, as defined, to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account.

This bill would repeal these provisions and enact the Community-Based Renewable Energy Self-Generation Program. The

program would authorize a retail customer of an electrical corporation (*participant*) to ~~purchase a subscription~~ *acquire an interest*, as defined, in a community *renewable energy* facility, as defined, for the purpose of receiving a bill credit, as defined, to offset all or a portion of the ~~customer's~~ *participant's* electricity usage, consistent with specified requirements. ~~Under~~

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

Because the provisions of the bill would require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

The bill would provide that any corporation or person engaged directly or indirectly in developing, producing, delivering, participating in, or selling interests in, a community *renewable energy* facility is not a public utility or electrical corporation solely by reason of engaging in any of those activities.

(2) Existing law authorizes the City of Davis to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a photovoltaic electricity generation facility located within, and partially owned by, the city (PVUSA solar facility) and requires the commission to adopt a rate tariff for the benefiting account.

This bill would repeal these provisions relating to the City of Davis.

(3) 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 25019 of the Corporations Code is
- 2 amended to read:
- 3 25019. (a) "Security" means any note; stock; treasury stock;
- 4 membership in an incorporated or unincorporated association;
- 5 bond; debenture; evidence of indebtedness; certificate of interest

1 or participation in any profit-sharing agreement; collateral trust
2 certificate; preorganization certificate or subscription; transferable
3 share; investment contract; viatical settlement contract or a
4 fractionalized or pooled interest therein; life settlement contract
5 or a fractionalized or pooled interest therein; voting trust certificate;
6 certificate of deposit for a security; interest in a limited liability
7 company and any class or series of those interests (including any
8 fractional or other interest in that interest), except a membership
9 interest in a limited liability company in which the person claiming
10 this exception can prove that all of the members are actively
11 engaged in the management of the limited liability company;
12 provided that evidence that members vote or have the right to vote,
13 or the right to information concerning the business and affairs of
14 the limited liability company, or the right to participate in
15 management, shall not establish, without more, that all members
16 are actively engaged in the management of the limited liability
17 company; certificate of interest or participation in an oil, gas or
18 mining title or lease or in payments out of production under that
19 title or lease; put, call, straddle, option, or privilege on any security,
20 certificate of deposit, or group or index of securities (including
21 any interest therein or based on the value thereof); or any put, call,
22 straddle, option, or privilege entered into on a national securities
23 exchange relating to foreign currency; any beneficial interest or
24 other security issued in connection with a funded employees'
25 pension, profit sharing, stock bonus, or similar benefit plan; or, in
26 general, any interest or instrument commonly known as a
27 "security"; or any certificate of interest or participation in,
28 temporary or interim certificate for, receipt for, guarantee of, or
29 warrant or right to subscribe to or purchase, any of the foregoing.
30 All of the foregoing are securities whether or not evidenced by a
31 written document. "Security"

32 (b) "Security" does not include: (1) any beneficial interest in
33 any voluntary inter vivos trust which is not created for the purpose
34 of carrying on any business or solely for the purpose of voting, or
35 (2) any beneficial interest in any testamentary trust, or (3) any
36 insurance or endowment policy or annuity contract under which
37 an insurance company admitted in this state promises to pay a sum
38 of money (whether or not based upon the investment performance
39 of a segregated fund) either in a lump sum or periodically for life
40 or some other specified period, or (4) any franchise subject to

1 registration under the Franchise Investment Law (Division 5
2 (commencing with Section 31000)), or exempted from registration
3 by Section 31100 or 31101, *or (5) any right to a bill credit or*
4 *interest of a participant in a community renewable energy facility*
5 *pursuant to Chapter 7.5 (commencing with Section 2830) of Part*
6 *2 of Division 1 of the Public Utilities Code.*

7 **SECTION 1.**

8 **SEC. 2.** Section 216 of the Public Utilities Code is amended
9 to read:

10 216. (a) “Public utility” includes every common carrier, toll
11 bridge corporation, pipeline corporation, gas corporation, electrical
12 corporation, telephone corporation, telegraph corporation, water
13 corporation, sewer system corporation, and heat corporation, where
14 the service is performed for, or the commodity is delivered to, the
15 public or any portion thereof.

16 (b) Whenever any common carrier, toll bridge corporation,
17 pipeline corporation, gas corporation, electrical corporation,
18 telephone corporation, telegraph corporation, water corporation,
19 sewer system corporation, or heat corporation performs a service
20 for, or delivers a commodity to, the public or any portion thereof
21 for which any compensation or payment whatsoever is received,
22 that common carrier, toll bridge corporation, pipeline corporation,
23 gas corporation, electrical corporation, telephone corporation,
24 telegraph corporation, water corporation, sewer system corporation,
25 or heat corporation, is a public utility subject to the jurisdiction,
26 control, and regulation of the commission and the provisions of
27 this part.

28 (c) When any person or corporation performs any service for,
29 or delivers any commodity to, any person, private corporation,
30 municipality, or other political subdivision of the state, that in turn
31 either directly or indirectly, mediately or immediately, performs
32 that service for, or delivers that commodity to, the public or any
33 portion thereof, that person or corporation is a public utility subject
34 to the jurisdiction, control, and regulation of the commission and
35 the provisions of this part.

36 (d) Ownership or operation of a facility that employs
37 cogeneration technology or produces power from other than a
38 conventional power source or the ownership or operation of a
39 facility which employs landfill gas technology does not make a

1 corporation or person a public utility within the meaning of this
2 section solely because of the ownership or operation of that facility.

3 (e) Any corporation or person engaged directly or indirectly in
4 developing, producing, transmitting, distributing, delivering, or
5 selling any form of heat derived from geothermal or solar resources
6 or from cogeneration technology to any privately owned or publicly
7 owned public utility, or to the public or any portion thereof, is not
8 a public utility within the meaning of this section solely by reason
9 of engaging in any of those activities.

10 (f) The ownership or operation of a facility that sells compressed
11 natural gas at retail to the public for use only as a motor vehicle
12 fuel, and the selling of compressed natural gas at retail from that
13 facility to the public for use only as a motor vehicle fuel, does not
14 make the corporation or person a public utility within the meaning
15 of this section solely because of that ownership, operation, or sale.

16 (g) Ownership or operation of a facility that is an exempt
17 wholesale generator, as defined in the Public Utility Holding
18 Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make
19 a corporation or person a public utility within the meaning of this
20 section, solely due to the ownership or operation of that facility.

21 (h) The ownership, control, operation, or management of an
22 electric plant used for direct transactions or participation directly
23 or indirectly in direct transactions, as permitted by subdivision (b)
24 of Section 365, sales into a market established and operated by the
25 Independent System Operator or any other wholesale electricity
26 market, or the use or sale as permitted under subdivisions (b) to
27 (d), inclusive, of Section 218, shall not make a corporation or
28 person a public utility within the meaning of this section solely
29 because of that ownership, participation, or sale.

30 (i) A corporation or person engaged directly or indirectly in
31 developing, *owning*, producing, delivering, participating in, or
32 selling interests in, a community *renewable energy* facility pursuant
33 to Chapter 7.5 (commencing with Section 2830) of Part 2, is not
34 a public utility within the meaning of this section solely by reason
35 of engaging in any of those activities.

36 ~~SEC. 2.~~

37 *SEC. 3.* Section 218 of the Public Utilities Code is amended
38 to read:

39 218. (a) “Electrical corporation” includes every corporation
40 or person owning, controlling, operating, or managing any electric

1 plant for compensation within this state, except where electricity
2 is generated on or distributed by the producer through private
3 property solely for its own use or the use of its tenants and not for
4 sale or transmission to others.

5 (b) “Electrical corporation” does not include a corporation or
6 person employing cogeneration technology or producing power
7 from other than a conventional power source for the generation of
8 electricity solely for any one or more of the following purposes:

9 (1) Its own use or the use of its tenants.

10 (2) The use of or sale to not more than two other corporations
11 or persons solely for use on the real property on which the
12 electricity is generated or on real property immediately adjacent
13 thereto, unless there is an intervening public street constituting the
14 boundary between the real property on which the electricity is
15 generated and the immediately adjacent property and one or more
16 of the following applies:

17 (A) The real property on which the electricity is generated and
18 the immediately adjacent real property is not under common
19 ownership or control, or that common ownership or control was
20 gained solely for purposes of sale of the electricity so generated
21 and not for other business purposes.

22 (B) The useful thermal output of the facility generating the
23 electricity is not used on the immediately adjacent property for
24 petroleum production or refining.

25 (C) The electricity furnished to the immediately adjacent
26 property is not utilized by a subsidiary or affiliate of the corporation
27 or person generating the electricity.

28 (3) Sale or transmission to an electrical corporation or state or
29 local public agency, but not for sale or transmission to others,
30 unless the corporation or person is otherwise an electrical
31 corporation.

32 (c) “Electrical corporation” does not include a corporation or
33 person employing landfill gas technology for the generation of
34 electricity for any one or more of the following purposes:

35 (1) Its own use or the use of not more than two of its tenants
36 located on the real property on which the electricity is generated.

37 (2) The use of or sale to not more than two other corporations
38 or persons solely for use on the real property on which the
39 electricity is generated.

1 (3) Sale or transmission to an electrical corporation or state or
2 local public agency.

3 (d) “Electrical corporation” does not include a corporation or
4 person employing digester gas technology for the generation of
5 electricity for any one or more of the following purposes:

6 (1) Its own use or the use of not more than two of its tenants
7 located on the real property on which the electricity is generated.

8 (2) The use of or sale to not more than two other corporations
9 or persons solely for use on the real property on which the
10 electricity is generated.

11 (3) Sale or transmission to an electrical corporation or state or
12 local public agency, if the sale or transmission of the electricity
13 service to a retail customer is provided through the transmission
14 system of the existing local publicly owned electric utility or
15 electrical corporation of that retail customer.

16 (e) “Electrical corporation” does not include an independent
17 solar energy producer, as defined in Article 3 (commencing with
18 Section 2868) of Chapter 9 of Part 2.

19 (f) The amendments made to this section at the 1987 portion of
20 the 1987–88 Regular Session of the Legislature do not apply to
21 any corporation or person employing cogeneration technology or
22 producing power from other than a conventional power source for
23 the generation of electricity that physically produced electricity
24 prior to January 1, 1989, and furnished that electricity to
25 immediately adjacent real property for use thereon prior to January
26 1, 1989.

27 (g) A corporation or person engaged directly or indirectly in
28 developing, *owning*, producing, delivering, participating in, or
29 selling interests in, a community *renewable energy* facility pursuant
30 to Chapter 7.5 (commencing with Section 2830) of Part 2, is not
31 an electrical corporation within the meaning of this section solely
32 by reason of engaging in any of those activities.

33 ~~SEC. 3.~~

34 ~~SEC. 4.~~ Section 2826.5 of the Public Utilities Code is repealed.

35 ~~SEC. 4.~~

36 ~~SEC. 5.~~ Chapter 7.5 (commencing with Section 2830) of Part
37 2 of Division 1 of the Public Utilities Code is repealed.

38 ~~SEC. 5.~~

39 ~~SEC. 6.~~ Chapter 7.5 (commencing with Section 2830) is added
40 to Part 2 of Division 1 of the Public Utilities Code, to read:

1 CHAPTER 7.5. COMMUNITY-BASED RENEWABLE ENERGY
2 SELF-GENERATION PROGRAM

3
4 2830. The Legislature finds and declares all of the following:

5 ~~(a) Despite the fact that all customers of California electrical~~
6 ~~corporations fund current self-generation programs, residential~~
7 ~~and commercial renters, small businesses, public entities, and low-~~
8 ~~and moderate-income Californians usually do not have the ability~~
9 ~~to participate fully in current self-generation programs. The purpose~~
10 ~~of this chapter is to provide all Californians with the opportunity~~
11 ~~to self-generate electricity utilizing renewable energy resources~~
12 ~~through the Community-Based Renewable Energy Self-Generation~~
13 ~~Program. It is in the public interest to promote broader participation~~
14 ~~in self-generation by California residents, public agencies, and~~
15 ~~businesses by the development of community renewable energy~~
16 ~~self-generation facilities in which participants are entitled to~~
17 ~~generate and receive electricity generated by renewable energy~~
18 ~~resources through an over-the-fence transaction.~~

19 ~~(b) It is the intent of the Legislature that public schools have~~
20 ~~the authority to invest in renewable energy self-generation facilities~~
21 ~~to generate electricity as provided in this chapter. Energy usage is~~
22 ~~one of the most significant cost pressures facing public schools at~~
23 ~~a time when schools have been forced to cut essential programs,~~
24 ~~increase classroom sizes, and send pink slips to teachers throughout~~
25 ~~the state. Schools may use the savings for restoring funds for~~
26 ~~salaries, student achievement, facility maintenance, and other~~
27 ~~budgetary needs. The renewable energy self-generation projects~~
28 ~~that will go forward under this chapter would create new green~~
29 ~~construction jobs, stimulate the economy, generate funding, and~~
30 ~~provide more electricity generated by clean, renewable sources to~~
31 ~~customers.~~

32 ~~(c) Community-based renewable energy self-generation facilities~~
33 ~~will contribute to the achievement of the 33 percent renewables~~
34 ~~portfolio standard in a cost-effective manner and will assist in~~
35 ~~meeting the state's zero net energy buildings goals. This chapter~~
36 ~~provides job creation, environmental protection, and school funding~~
37 ~~for those who choose to make the investment in community-based~~
38 ~~renewable energy self-generation facilities.~~

39 ~~(a) The Governor has proposed a Clean Energy Jobs Plan~~
40 ~~calling for the development of 12,000 megawatts of generation~~

1 *from distributed eligible renewable energy resources of up to 20*
2 *megawatts in size by 2020. The Legislature recognizes the*
3 *advantages of this proposal as distributed generation provides*
4 *benefits in addition to the environmental benefits, including*
5 *reduced electrical line losses, decreased investment in transmission*
6 *and distribution infrastructure, easier permitting, and local*
7 *economic benefits. There is widespread interest from many large*
8 *institutional customers, including schools, colleges, universities,*
9 *local governments, businesses, and the military, for development*
10 *of distributed energy facilities to serve their needs. For these*
11 *reasons the Legislature agrees that the Governor's distributed*
12 *energy program represents a desired policy direction for the state.*

13 *(b) Community-based renewable energy self-generation creates*
14 *jobs, reduces emissions of greenhouse gases, promotes energy*
15 *independence, and will assist in meeting the state's zero net energy*
16 *buildings goals. Further, community-based renewable energy*
17 *self-generation will enable schools, colleges, universities, local*
18 *governments, businesses and consumers to save money on their*
19 *electricity bills, thereby helping to fund educational programs,*
20 *social services, and new hiring.*

21 *(c) The California Solar Initiative has been extremely successful,*
22 *resulting in over 100,000 residential and commercial on-site*
23 *installations of solar energy systems. The Community-Based*
24 *Renewable Energy Self-Generation Program seeks to build on this*
25 *success by dramatically expanding the market for eligible*
26 *renewable energy resources to include residential and commercial*
27 *renters, residential and commercial buildings with shaded or*
28 *improperly oriented roofs, and other groups who are unable to*
29 *access the benefits of onsite generation. It is in the public interest*
30 *to promote broader participation in self-generation by California*
31 *residents, public agencies, and businesses by the development of*
32 *community renewable energy self-generation facilities in which*
33 *participants are entitled to generate electricity and receive credit*
34 *for that electricity on their utility bills.*

35 *(d) Many institutional customers in California have been focused*
36 *on distributed energy programs of their own. For example, the*
37 *Secretary of the Navy established as policy that 50 percent of the*
38 *on-shore electricity for naval and Marine Corps installations in*
39 *the United States be from renewable sources by 2020. To*
40 *implement this policy the Navy and Marine Corps have been*

1 working on a variety of renewable generation projects within the
 2 1 megawatt to 20 megawatt range. The military installations, and
 3 other institutional users, have identified a number of regulatory
 4 barriers to implementing distributed generation projects. The
 5 enactment of this chapter will create a mechanism whereby
 6 institutional customers such as military installations, universities,
 7 and local governments, as well as groups of individuals, can
 8 efficiently invest in generating electricity from eligible renewable
 9 energy resources.

10 (e) It is the intent of the Legislature that public schools have
 11 the authority to invest in community renewable energy facilities
 12 to generate electricity as provided in this chapter. Electricity usage
 13 is one of the most significant cost pressures facing public schools
 14 at a time when schools have been forced to cut essential programs,
 15 increase classroom sizes, and send pink slips to teachers
 16 throughout the state. Schools may use the savings for restoring
 17 funds for salaries, student achievement, facility maintenance, and
 18 other budgetary needs. The community renewable energy facility
 19 projects that go forward pursuant to this chapter will create new
 20 construction jobs, stimulate the economy, generate funding, and
 21 provide more electricity generated by clean, renewable sources
 22 to customers.

23 (f) It is the further intent of the Legislature that as the
 24 commission works to implement this chapter, that the commission
 25 carefully consider regulatory barriers to distributed generation
 26 projects already identified and those not yet identified, and quickly
 27 address those barriers in a manner that is conducive to the
 28 development of distributed generation projects consistent with
 29 appropriate ratepayer protections.

30 2831. As used in this chapter, the following terms have the
 31 following meanings:

32 (a) ~~“Allocated credit” means the percentage of the gross credit~~
 33 ~~that will be further allocated to an individual benefiting account.~~

34 (b)

35 (a) “Benefiting account” means one or more accounts designated
 36 to receive a bill credit pursuant to Section 2832.

37 (c)

38 (b) “Bill credit” means an amount of money credited *each*
 39 *month, or in an otherwise applicable billing period*, to one or more
 40 benefiting accounts based on the percentage share of the

1 community *renewable energy* facility that is assigned to the account
2 pursuant to the methodology described in Section 2832.

3 ~~(d)~~

4 (c) “Community *renewable energy* facility” means a facility for
5 the generation of electricity that meets all of the following
6 requirements:

7 (1) Has a generating capacity of no more than 20 megawatts.

8 (2) Is an eligible renewable energy resource pursuant to ~~Article~~
9 *the California Renewables Portfolio Standard Program (Article*
10 16 (commencing with Section 399.11) of Chapter 2.3 of Part ~~4-~~
11 *1*).

12 (3) The electrical output of the facility is measured by a
13 production meter capable of recording ~~production~~ *electrical*
14 *generation* in real time.

15 ~~(4) Sells subscriptions to the electrical output of the facility.~~

16 ~~(5)~~

17 (4) Is located *within the service territory of an electrical*
18 *corporation having 100,000 or more service connections in*
19 *California.*

20 ~~(e) “Gross credit” means the metered kilowatthours of electrical~~
21 ~~output of the community facility exported to the grid, as measured~~
22 ~~at the point of common coupling.~~

23 (5) *If it is to interconnect to the electrical grid at the*
24 *transmission level of the grid, it has applied for interconnection*
25 *through the Independent System Operator’s generation*
26 *interconnection process.*

27 (6) *Unless the facility has a bill credit arrangement in place by*
28 *December 31, 2012, it achieves initial commercial operation on*
29 *January 1, 2013, or thereafter.*

30 (d) “Facility rate” means the per kilowatthour rate, or some
31 other unit of measurement that the commission determines to be
32 superior to kilowatthours, established by the commission that is
33 used to calculate the bill credit for a particular community
34 renewable energy facility. The applicable facility rate for each
35 community renewable energy facility shall be computed pursuant
36 to Section 2832.

37 (e) “Interest” means a direct or indirect ownership, lease,
38 subscription, or financing interest in a community renewable
39 energy facility that enables the participant to receive a bill credit
40 for a retail account with the electrical corporation.

1 (f) “Local government” means a city, county, city and county,
 2 special district, school district, *county office of education*, political
 3 subdivision, or other local governmental entity.

4 (g) ~~“Subscriber”~~ “Participant” means a retail customer of an
 5 electrical corporation who owns ~~a subscription~~, *leases, finances,*
 6 *or subscribes to an interest in a community renewable energy*
 7 *facility* and who has designated one or more *of its own retail*
 8 *accounts as a benefiting accounts* account to which the subscription
 9 shall be attributed, ~~including a local government, the California~~
 10 ~~Community Colleges, the California State University, and the~~
 11 ~~University of California.~~

12 (h) ~~“Subscriber”~~ “Participant organization” means any ~~for-profit~~
 13 ~~or nonprofit organization or business, created and operating~~
 14 ~~pursuant to law, entity~~ whose purpose is to beneficially own or
 15 operate a *community renewable energy* facility for the subscribers
 16 ~~to the community participants or owners of that facility.~~

17 (i) ~~“Subscription”~~ means an interest in a community facility.

18 2832. (a) (1) A retail customer of an electrical ~~utility~~
 19 *corporation having 100,000 or more service connections within*
 20 *the state may purchase a subscription acquire an interest in a*
 21 *community renewable energy* facility for the purpose of
 22 ~~self-generation~~ *becoming a participant and receiving a bill credit*
 23 *to offset all or a portion of the customer’s bill for electrical service.*
 24 ~~The subscriber participant~~ shall designate one or more benefiting
 25 accounts to which the ~~subscription interest~~ shall be attributed.

26 (2) To be eligible to be designated as a benefiting account, the
 27 account shall be for service to premises located within the
 28 geographical boundaries of the service territory of the electrical
 29 corporation containing the *community renewable energy* facility,
 30 or within the geographical boundaries of a contiguous service
 31 territory, if the electrical corporation or local publicly owned
 32 electric utility for that service territory have entered into an
 33 agreement enabling the connection of the benefiting account to
 34 the *community renewable energy* facility.

35 (b) ~~(1) Each subscription shall be sized to represent at least one~~
 36 ~~kilowatt of the community facility’s generating capacity.~~

37 (3) *A participant organization may beneficially own or operate*
 38 *a community renewable energy facility for the participants of that*
 39 *facility. A community renewable energy facility may be built,*

1 owned, or operated by a third party under contract with a
2 participant organization.

3 (4) (A) The combined statewide cumulative rated generating
4 capacity of community renewable energy facilities under this
5 program shall not exceed 2 gigawatts, except as provided by in
6 subparagraph (B).

7 (B) The commission shall maintain a publicly available database
8 of existing and proposed community renewable energy facilities.
9 Proposed community renewable energy facilities shall report their
10 expected size, location, and commercial operation date no less
11 than six months prior to their commercial operation date. Once
12 the statewide cumulative rated generation capacity of existing and
13 proposed community renewable energy facilities reaches one
14 gigawatt, the commission shall establish a process for allocating
15 the remaining one gigawatt of capacity to ensure the cap
16 established in subparagraph (A) is not exceeded. When the
17 statewide cumulative rated generation capacity of community
18 renewable energy facilities reaches one and one-half gigawatts,
19 the commission shall begin a process to determine if the gigawatt
20 limitation in subparagraph (A) is necessary. Unless the commission
21 determines that removal of the gigawatt limitation in subparagraph
22 (A) would have a significant negative effect on electrical
23 corporation ratepayers, the commission shall order that the
24 gigawatt limitation is no longer applicable. If the commission
25 decides that the removal of the gigawatt limitation in subparagraph
26 (A) would have a significant negative effect on the ratepayers of
27 an electrical corporation, the commission shall decide if the
28 limitation should remain at two gigawatts or if it should be raised
29 to some other level. For the purposes of this subparagraph, the
30 rated generating capacity of a community renewable energy facility
31 shall, where available, use the Energy Commission's alternating
32 current rating for the facility.

33 (5) (A) The commission shall maintain a public database of
34 annualized average generation rates for each customer class and
35 tier.

36 (B) The tariff applicable to a participant shall be identical, with
37 respect to rate structure, all retail rate components, and any
38 monthly charges, to the charges that the participant would be
39 assigned if the participant did not receive a bill credit. Participants
40 shall not be assessed standby charges on the community renewable

1 energy facility or the kilowatthour generation of a community
2 renewable energy facility. Any new or additional demand charge,
3 standby charge, customer charge, minimum monthly charge,
4 interconnection charge, or any other charge that would increase
5 a participant's costs beyond those of other customers who are not
6 participants in the rate class to which the participant would
7 otherwise be assigned if the participant did not receive a bill credit
8 is contrary to the intent of this chapter, and shall not form a part
9 of the participant's tariff.

10 (6) The commission shall establish a facility rate base for each
11 community renewable energy facility utilizing either the renewables
12 portfolio standard (RPS) solicitation method or added value
13 method, to be computed as follows:

14 (A) Beginning January 1, 2013, the RPS solicitation method
15 shall be used for computing the facility rate. Pursuant to this
16 method, the facility rate shall be set at the weighted average
17 time-of-delivery adjusted cost of electricity delivered from an
18 eligible renewable energy resource of comparable size that utilizes
19 the same generating technology as employed by the community
20 renewable energy facility, calculated for the most recent year for
21 each electrical corporation for purposes of the report made to the
22 Legislature pursuant to Section 911. Where data is not available
23 for a comparable resource and facility size for the previous year,
24 the most recent data shall be used. The facility rate shall be
25 calculated on the basis of the price paid for a kilowatthour of
26 electricity, unless the commission determines that some other unit
27 of measurement is superior to using kilowatthours, in which case
28 that unit of measurement will be used. The RPS solicitation method
29 for computing the facility rate shall be determined as of the time
30 that the community renewable energy facility becomes operational.

31 (B) Not later than December 31, 2014, the commission shall
32 determine the added value method for calculating a facility rate.
33 Pursuant to the added value method, the facility rate shall be set
34 at the monetary value of the benefits a community renewable
35 energy facility brings to the electrical corporation, other
36 nonparticipating ratepayers, and the grid. In determining the added
37 value, the commission shall analyze the benefits, including avoided
38 transmission line loss, avoided transmission and distribution
39 infrastructure costs, any reduction in fixed operations and
40 maintenance costs, the offset of peak demand or shifting load, and

1 *the reduction of environmental compliance costs, including costs*
2 *that would otherwise be incurred for reducing emissions of*
3 *greenhouse gases. The value of these benefits shall be added to*
4 *the otherwise applicable generation component of the participant's*
5 *electric service rate. The commission shall reevaluate the facility*
6 *rate using the added value method every three years, and shall*
7 *establish a new added value if the commission determines that*
8 *there has been a material change in the added value of the*
9 *community renewable energy facility.*

10 (7) (A) *Prior to January 1, 2015, the RPS solicitation method*
11 *shall be used to compute the facility rate.*

12 (B) *Beginning January 1, 2015, the added value method shall*
13 *be used to compute the facility rate if both of the following are*
14 *true:*

15 (i) *The commission has determined a facility rate for the*
16 *community renewable energy facility using the added value method.*

17 (ii) *The bill credit that will be provided using the added value*
18 *method is greater than the credit provided by continued use of the*
19 *RPS solicitation method.*

20 (8) *The electrical corporation shall provide a monthly bill credit,*
21 *valued in dollars, to each benefiting account. The bill credit amount*
22 *shall be calculated as the volumetric quantity of generation*
23 *allocated to the benefiting account multiplied by the facility rate.*
24 *The volumetric quantity of generation shall be expressed in*
25 *kilowatthours, unless the commission determines that another unit*
26 *of measurement is superior to use in place of kilowatthours.*

27 ~~(2)~~

28 (b) (1) ~~A subscriber participant shall not purchase more than~~
29 ~~2 megawatts of capacity in any single acquire an interest in a~~
30 ~~community renewable energy facility that represents more than~~
31 ~~2 megawatts of generating capacity. This subdivision limitation~~
32 ~~does not apply to a federal, state, or local government, school,~~
33 ~~school district, county office of education, the California~~
34 ~~Community Colleges, the California State University, or the~~
35 ~~University of California.~~

36 ~~(3) A subscriber organization may beneficially own or operate~~
37 ~~a community facility for the subscribers to the community facility.~~
38 ~~A community facility may be built, owned, or operated by a third~~
39 ~~party under contract with a subscriber organization.~~

1 ~~(4) Prior to a sale of a subscription, the subscriber organization~~
 2 ~~shall provide a disclosure to the customer that, at a minimum,~~
 3 ~~includes all of the following:~~

4 ~~(A) A good faith estimate of the annual kilowatthours to be~~
 5 ~~delivered by the community facility based on the size of the~~
 6 ~~subscription.~~

7 ~~(B) A plain language explanation of the terms under which the~~
 8 ~~bill credits will be calculated.~~

9 ~~(C) A plain language explanation of the contract provisions~~
 10 ~~regulating the disposition or transfer of the subscription.~~

11 ~~(5)~~

12 (2) The commission shall not regulate the prices paid for ~~the~~
 13 ~~shares of an interest in a community renewable energy facility,~~
 14 ~~but may enforce the required disclosures.~~

15 ~~(e) Local governments~~

16 (3) *Participants* may aggregate their loads for the purpose of
 17 participating in a community *renewable energy* facility pursuant
 18 to this section.

19 (4) *For a participant that elects to aggregate its loads for the*
 20 *purpose of acquiring an interest in a community renewable energy*
 21 *facility, the participant shall designate the benefitting accounts*
 22 *and the allocation of the bill credit to those accounts.*

23 ~~(d)~~

24 (c) (1) A ~~subscriber~~ *participant* organization shall provide to
 25 the electrical corporation information on the identity of the
 26 benefitting accounts that will receive a bill credit pursuant to this
 27 section not less than 30 days prior to the ~~commencement of the~~
 28 ~~operations of the community facility~~ *billing cycle for which the*
 29 *participant's account will receive a bill credit. The participant*
 30 *organization shall provide the electrical corporation with not less*
 31 *than 30 days' notice whenever a participant's facility rate changes*
 32 *from the RPS solicitation method to the added value method.*

33 (2) ~~For a local government that elects to aggregate its loads for~~
 34 ~~the purpose of purchasing a subscription, if the local government~~
 35 ~~has more than one benefitting account, the owner or operator of~~
 36 ~~the facility shall designate the specific accounts and percentage~~
 37 ~~allocations to which the bill credit shall apply.~~

38 (3) A subscriber organization shall be responsible for all costs
 39 of metering and shall retain production data for a period of 36
 40 months. The subscriber organization shall provide real-time meter

1 data to the electrical corporation and shall make the data available
2 to the subscribers upon request.

3 (e) (1) ~~Not more frequently than once per month, and upon~~
4 ~~providing the electrical corporation with a minimum of 30 days'~~
5 ~~notice, the subscriber organization may change, add, or remove a~~
6 ~~benefiting account. If the owner of a benefiting account transfers~~
7 ~~service to a new benefiting account, the electrical corporation shall~~
8 ~~transfer any credit remaining from the previous account to the new~~
9 ~~account.~~

10 (2) ~~A subscriber organization shall be responsible for providing~~
11 ~~to the electrical corporation, on a monthly basis, the percentage~~
12 ~~shares to be used to determine the bill credit to each benefiting~~
13 ~~account.~~

14 (2) *Prior to the sale of an interest in a community renewable*
15 *energy facility, the participant organization shall provide a*
16 *disclosure to the potential participant that, at a minimum, includes*
17 *all of the following:*

18 (A) *A good faith estimate of the annual kilowatthours to be*
19 *delivered by the community renewable energy facility based on*
20 *the size of the interest.*

21 (B) *A plain language explanation of the terms under which the*
22 *bill credits will be calculated.*

23 (C) *A plain language explanation of the contract provisions*
24 *regulating the disposition or transfer of the interest.*

25 (D) *A plain language explanation of the costs and benefits to*
26 *the potential participant based on their current usage and*
27 *applicable tariff, for the term of the proposed contract.*

28 (3) *Not more frequently than once per month, and upon*
29 *providing the electrical corporation with a minimum of 30 days'*
30 *notice, the participant organization may change, add, or remove*
31 *a benefiting account. If the owner of a benefiting account transfers*
32 *service to a new address or benefiting account, the electrical*
33 *corporation shall transfer any credit remaining from the previous*
34 *account to the new account.*

35 (4) *A participant organization shall be responsible for providing*
36 *to the electrical corporation, on a monthly basis, a statement of*
37 *the percentage shares to be used to determine the bill credit to*
38 *each benefiting account and the names and account numbers of*
39 *those participants who's facility rate is to be changed from the*
40 *RPS solicitation method to the added value method. If there has*

1 *been no change in the allocations from the previous submission*
 2 *or in the method of calculating the facility rate of participants, the*
 3 *participant organization is not required to submit a new statement.*

4 *(5) The participant organization shall provide real-time meter*
 5 *data to the electrical corporation and shall make the data available*
 6 *to a participant upon request. A participant organization shall be*
 7 *responsible for all costs of metering and shall retain production*
 8 *data for a period of 36 months.*

9 *(6) A participant organization shall provide not less than 120*
 10 *days' notice to the electrical corporation and the commission prior*
 11 *to the date the community renewable energy facility becomes*
 12 *operational.*

13 *(7) The participant organization shall establish an account and*
 14 *register the community renewable energy facility with the Western*
 15 *Renewable Energy Generation Information System or its successor.*

16 *(8) The participant organization shall be responsible for all*
 17 *costs of interconnection at either the distribution or transmission*
 18 *level of the electrical grid.*

19 *(d) (1) An electrical corporation shall ensure that requests for*
 20 *establishment of bill credits and changes to benefiting accounts*
 21 *are processed in a time period not to exceed 30 days from the date*
 22 *it receives the request.*

23 *(2) An electrical corporation shall cooperate fully with*
 24 *community renewable energy facilities to implement this chapter.*

25 *(3) An electrical corporation shall comply with the requirements*
 26 *applicable to protection of the right to commercial free speech*
 27 *described in Commission Decision 10-05-050 as applied to the*
 28 *development, sale of subscriptions, and operation of community*
 29 *renewable energy facilities. Community renewable energy facilities*
 30 *may file a complaint with the commission for violation of this*
 31 *paragraph.*

32 *(4) For capacity that is unallocated to a benefitting account*
 33 *during the previous billing period, the recipient electrical*
 34 *corporation shall pay the facility operator the current default load*
 35 *aggregation point.*

36 ~~(f)~~

37 *(e) The following billing process shall be used when billing and*
 38 *creating a benefiting account:*

39 ~~(1) The subscriber shall be billed and is responsible for paying~~
 40 ~~all charges of the subscriber's otherwise applicable tariff, including~~

1 any cost-responsibility surcharge or other cost recovery mechanism,
2 as determined by the commission, to reimburse the Department
3 of Water Resources for purchases of electricity pursuant to Division
4 27 (commencing with Section 80000) of the Water Code.
5 Community facilities shall not be subject to any other departing
6 load charge.

7 (2) Each month the subscriber organization shall determine the
8 allocated credits, in kilowatthours, that shall be applied to a
9 subscriber's benefiting account and provide that information to
10 the electrical corporation.

11 (3) The electrical corporation shall subtract the kilowatthours
12 of the allocated credit from the subscriber's metered usage to
13 determine the bill credit to be applied to the subscriber's bill. The
14 electrical corporation's charges shall apply to the kilowatthour
15 difference based upon the subscriber's otherwise applicable tariff.
16 Nongeneration charges shall additionally be applied to the allocated
17 credit, except that for community facilities that are interconnected
18 at the distribution level, the transmission component of the
19 subscriber's otherwise applicable tariff shall not be applied to the
20 allocated credits. The bill may reflect either a charge or a credit.

21 (4) For a subscriber with an otherwise applicable tariff with
22 tiered rates, the subscriber organization shall first subtract allocated
23 credits from the highest tier of usage, and upon exhaustion of that
24 tier of usage, to the next highest tier, until all of the allocated credit
25 has been subtracted.

26 (5) For a subscriber with an otherwise applicable tariff with
27 time-of-use rates, the subscriber organization shall subtract
28 allocated credits for each time-of-use period from the energy usage
29 for that same time-of-use period.

30 (6) A subscriber shall pay their bill, if charges are owed, on a
31 monthly basis. Bill credits, if any, shall be carried over to the
32 following billing period.

33 (g) A subscriber organization shall provide not less than 120
34 days' notice to the electrical corporation prior to the date the
35 community facility becomes operational.

36 (h) An electrical corporation shall ensure that requests for
37 establishment of bill credits and changes to benefiting accounts
38 are processed in a time period not to exceed 30 days from the date
39 it receives the request.

1 (i) ~~If a subscriber sells or cancels its interest in, or contract with~~
2 ~~the owner or operator of, the community facility, or sells the~~
3 ~~electricity generated by the community facility in a manner that~~
4 ~~is not authorized by this section, upon the date of that event, no~~
5 ~~further bill credit may be earned pursuant to this section, and only~~
6 ~~credit earned prior to that date may be assigned by the subscriber~~
7 ~~organization to a new benefiting account.~~

8 (j) ~~In lieu of departing load charges and charges for applying~~
9 ~~the bill credits and to ensure that no costs are shifted from~~
10 ~~subscribers to nonparticipating retail customers, the electrical~~
11 ~~corporation shall own the renewable energy credits generated by~~
12 ~~a community facility and the electricity generated by community~~
13 ~~facilities shall be taken into account when determining if the~~
14 ~~electrical corporation has met its renewables portfolio standard~~
15 ~~procurement requirements pursuant to Article 16 (commencing~~
16 ~~with Section 399.11) of Chapter 2.3 of Part 1.~~

17 (k) ~~This section does not require an electrical corporation to~~
18 ~~purchase electricity from a community facility.~~

19 (l) (1) ~~A community facility may elect to provide electricity~~
20 ~~only or electricity and capacity. An electrical corporation shall~~
21 ~~ensure that a request for a distribution level interconnection~~
22 ~~agreement from a community facility is processed in a time period~~
23 ~~not to exceed 90 working days from the date the electrical~~
24 ~~corporation receives a completed application for interconnection.~~

25 (2) ~~All costs associated with interconnection are the~~
26 ~~responsibility of the owner or operator of the community facility.~~
27 ~~The community facility shall apply for transmission level~~
28 ~~interconnections through the Independent System Operator's~~
29 ~~generation interconnection process.~~

30 (m) ~~An electrical utility shall cooperate fully with community~~
31 ~~facilities to implement this section.~~

32 (n) ~~An electrical utility shall comply with the requirements~~
33 ~~applicable to commercial speech described in Public Utilities~~
34 ~~Commission Decision 10-05-050 as applied to the development,~~
35 ~~sale of subscriptions, and operation of community facilities.~~
36 ~~Community facilities may file a complaint with the commission~~
37 ~~for violation of this subdivision.~~

38 (1) *An electrical corporation shall bill a benefiting account for*
39 *all electricity usage, and for each applicable bill component,*
40 *including but not limited to transmission and distribution charges,*

1 *at the rate schedule applicable to the benefiting account, including*
2 *any cost-responsibility surcharge or other cost recovery*
3 *mechanism, as determined by the commission, to reimburse the*
4 *Department of Water Resources for purchases of electricity*
5 *pursuant to Division 27 (commencing with Section 80000) of the*
6 *Water Code. Participants shall not be subject to any departing*
7 *load charge.*

8 (2) *An electrical corporation shall subtract the bill credit*
9 *applicable to the benefiting account. The electrical corporation*
10 *shall ensure that the subscriber receives the full bill credit to which*
11 *it is entitled. The information and line items on a participant's bill*
12 *statement will be unchanged, except one or more entries detailing*
13 *the bill credit shall be added to a participant's bill.*

14 (3) *If, at the end of each billing cycle, the total otherwise*
15 *applicable bill exceeds the bill credit, the benefiting account shall*
16 *be billed for the difference.*

17 (4) *If, at the end of a billing cycle, the bill credit exceeds the*
18 *total amount billed to the account, the difference shall be carried*
19 *forward as a dollar credit to the next billing cycle.*

20 (f) *Unless specifically provided otherwise in the contract*
21 *between the participant organization and the participant, any*
22 *renewable energy credits associated with an interest shall be*
23 *retired by the participant organization on behalf of the participant.*
24 *Renewable energy credits generated at a facility owned by an*
25 *electrical corporation shall be counted toward that electrical*
26 *corporation's renewables portfolio standard. For purposes of this*
27 *subdivision, "renewable energy credit" and "renewables portfolio*
28 *standard" have the same meanings as defined in Section 399.12.*

29 (g) *In calculating its procurement requirements to meet the*
30 *requirements of the California Renewables Portfolio Standard*
31 *Program (Article 16 (commencing with Section 399.11) of Chapter*
32 *2.3 of Part 1), an electrical corporation may exclude from total*
33 *retail sales the kilowatthours generated by a community renewable*
34 *energy facility.*

35 (h) *A community renewable energy facility that is interconnected*
36 *at the distribution level shall be treated as being deliverable to*
37 *load for the purposes of Section 380. The generating capacity of*
38 *a community renewable energy facility shall be counted toward*
39 *meeting the resource adequacy requirements adopted by the*
40 *commission pursuant to Section 380.*

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

O