

AMENDED IN ASSEMBLY MAY 9, 2012  
AMENDED IN ASSEMBLY APRIL 30, 2012  
AMENDED IN ASSEMBLY JUNE 21, 2011  
AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 843**

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**Introduced by Senator Wolk**

February 18, 2011

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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 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 participant's electricity usage, consistent with specified requirements.

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~~

(2) *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)~~

(3) 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)~~

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

37 (b) “Security” does not include: (1) any beneficial interest in  
38 any voluntary inter vivos trust which is not created for the purpose

1 of carrying on any business or solely for the purpose of voting, or  
2 (2) any beneficial interest in any testamentary trust, or (3) any  
3 insurance or endowment policy or annuity contract under which  
4 an insurance company admitted in this state promises to pay a sum  
5 of money (whether or not based upon the investment performance  
6 of a segregated fund) either in a lump sum or periodically for life  
7 or some other specified period, or (4) any franchise subject to  
8 registration under the Franchise Investment Law (Division 5  
9 (commencing with Section 31000)), or exempted from registration  
10 by Section 31100 or 31101, or (5) any right to a bill credit or  
11 interest of a participant in a community renewable energy facility  
12 pursuant to Chapter 7.5 (commencing with Section 2830) of Part  
13 2 of Division 1 of the Public Utilities Code.

14 ~~SEC. 2.—Section 216 of the Public Utilities Code is amended~~  
15 ~~to read:~~

16 ~~216. (a) “Public utility” includes every common carrier, toll~~  
17 ~~bridge corporation, pipeline corporation, gas corporation, electrical~~  
18 ~~corporation, telephone corporation, telegraph corporation, water~~  
19 ~~corporation, sewer system corporation, and heat corporation, where~~  
20 ~~the service is performed for, or the commodity is delivered to, the~~  
21 ~~public or any portion thereof.~~

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

34 ~~(c) When any person or corporation performs any service for,~~  
35 ~~or delivers any commodity to, any person, private corporation,~~  
36 ~~municipality, or other political subdivision of the state, that in turn~~  
37 ~~either directly or indirectly, mediately or immediately, performs~~  
38 ~~that service for, or delivers that commodity to, the public or any~~  
39 ~~portion thereof, that person or corporation is a public utility subject~~

1 to the jurisdiction, control, and regulation of the commission and  
2 the provisions of this part.

3 ~~(d) Ownership or operation of a facility that employs~~  
4 ~~cogeneration technology or produces power from other than a~~  
5 ~~conventional power source or the ownership or operation of a~~  
6 ~~facility which employs landfill gas technology does not make a~~  
7 ~~corporation or person a public utility within the meaning of this~~  
8 ~~section solely because of the ownership or operation of that facility.~~

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

16 ~~(f) The ownership or operation of a facility that sells compressed~~  
17 ~~natural gas at retail to the public for use only as a motor vehicle~~  
18 ~~fuel, and the selling of compressed natural gas at retail from that~~  
19 ~~facility to the public for use only as a motor vehicle fuel, does not~~  
20 ~~make the corporation or person a public utility within the meaning~~  
21 ~~of this section solely because of that ownership, operation, or sale.~~

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

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

36 ~~(i) A corporation or person engaged directly or indirectly in~~  
37 ~~developing, owning, producing, delivering, participating in, or~~  
38 ~~selling interests in, a community renewable energy facility pursuant~~  
39 ~~to Chapter 7.5 (commencing with Section 2830) of Part 2, is not~~

1 a public utility within the meaning of this section solely by reason  
2 of engaging in any of those activities.

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

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

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

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

31 (d) Ownership or operation of a facility that employs  
32 cogeneration technology or produces power from other than a  
33 conventional power source or the ownership or operation of a  
34 facility which employs landfill gas technology does not make a  
35 corporation or person a public utility within the meaning of this  
36 section solely because of the ownership or operation of that facility.

37 (e) Any corporation or person engaged directly or indirectly in  
38 developing, producing, transmitting, distributing, delivering, or  
39 selling any form of heat derived from geothermal or solar resources  
40 or from cogeneration technology to any privately owned or publicly

1 owned public utility, or to the public or any portion thereof, is not  
2 a public utility within the meaning of this section solely by reason  
3 of engaging in any of those activities.

4 (f) The ownership or operation of a facility that sells compressed  
5 natural gas at retail to the public for use only as a motor vehicle  
6 fuel, and the selling of compressed natural gas at retail from that  
7 facility to the public for use only as a motor vehicle fuel, does not  
8 make the corporation or person a public utility within the meaning  
9 of this section solely because of that ownership, operation, or sale.

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

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

24 (i) The ownership, control, operation, or management of a  
25 facility that supplies electricity to the public only for use to charge  
26 light duty plug-in electric vehicles does not make the corporation  
27 or person a public utility within the meaning of this section solely  
28 because of that ownership, control, operation, or management. For  
29 purposes of this subdivision, “light duty plug-in electric vehicles”  
30 includes light duty battery electric and plug-in hybrid electric  
31 vehicles. This subdivision does not affect the commission’s  
32 authority under Section 454 or 740.2 or any other applicable statute.

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

39 SEC. 3. Section 218 of the Public Utilities Code is amended  
40 to read:

1 218. (a) “Electrical corporation” includes every corporation  
2 or person owning, controlling, operating, or managing any electric  
3 plant for compensation within this state, except where electricity  
4 is generated on or distributed by the producer through private  
5 property solely for its own use or the use of its tenants and not for  
6 sale or transmission to others.

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

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

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

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

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

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

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

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

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

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

4 (3) Sale or transmission to an electrical corporation or state or  
5 local public agency.

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

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

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

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

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

22 (f) The amendments made to this section at the 1987 portion of  
23 the 1987–88 Regular Session of the Legislature do not apply to  
24 any corporation or person employing cogeneration technology or  
25 producing power from other than a conventional power source for  
26 the generation of electricity that physically produced electricity  
27 prior to January 1, 1989, and furnished that electricity to  
28 immediately adjacent real property for use thereon prior to January  
29 1, 1989.

30 (g) 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 an electrical corporation within the meaning of this section solely  
35 by reason of engaging in any of those activities.

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

37 SEC. 5. Chapter 7.5 (commencing with Section 2830) of Part  
38 2 of Division 1 of the Public Utilities Code is repealed.

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~~ *SELF-GENERATION PROGRAM*

3

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

5 (a) The Governor has proposed a Clean Energy Jobs Plan calling  
6 for the development of 12,000 megawatts of generation from  
7 distributed eligible renewable energy resources of up to 20  
8 megawatts in size by 2020. The Legislature recognizes the  
9 advantages of this proposal as distributed generation provides  
10 benefits in addition to the environmental benefits, including  
11 reduced electrical line losses, decreased investment in transmission  
12 and distribution infrastructure, easier permitting, and local  
13 economic benefits. There is widespread interest from many large  
14 institutional customers, including schools, colleges, universities,  
15 local governments, businesses, and the military, for development  
16 of distributed energy facilities to serve their needs. For these  
17 reasons the Legislature agrees that the Governor's distributed  
18 energy program represents a desired policy direction for the state.

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

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

1 (d) Many institutional customers in California have been focused  
2 on distributed energy programs of their own. For example, the  
3 Secretary of the Navy established as policy that 50 percent of the  
4 on-shore electricity for naval and Marine Corps installations in  
5 the United States be from renewable sources by 2020. To  
6 implement this policy the Navy and Marine Corps have been  
7 working on a variety of renewable generation projects within the  
8 1 megawatt to 20 megawatt range. The military installations, and  
9 other institutional users, have identified a number of regulatory  
10 barriers to implementing distributed generation projects. The  
11 enactment of this chapter will create a mechanism whereby  
12 institutional customers such as military installations, universities,  
13 and local governments, as well as groups of individuals, can  
14 efficiently invest in generating electricity from eligible renewable  
15 energy resources.

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

29 (f) It is the further intent of the Legislature that as the  
30 commission works to implement this chapter, that the commission  
31 carefully consider regulatory barriers to distributed generation  
32 projects already identified and those not yet identified, and quickly  
33 address those barriers in a manner that is conducive to the  
34 development of distributed generation projects consistent with  
35 appropriate ratepayer protections.

36 2831. As used in this chapter, the following terms have the  
37 following meanings:

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

1 (b) “Bill credit” means an amount of money credited each  
2 month, or in an otherwise applicable billing period, to one or more  
3 benefiting accounts based on the percentage share of the  
4 community renewable energy facility that is assigned to the account  
5 pursuant to the methodology described in Section 2832.

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

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

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

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

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

19 ~~(5) If it is to interconnect to the electrical grid at the transmission~~  
20 ~~level of the grid, it has applied for interconnection through the~~  
21 ~~Independent System Operator’s generation interconnection process.~~

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

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

29 *(d) “Default load aggregation point” means a calculation, as*  
30 *determined by the commission, of avoided cost derived from an*  
31 *hourly day-ahead electricity market price that reflects the costs*  
32 *the electrical corporation avoids in procuring electricity during*  
33 *the time period a community renewable energy facility generates*  
34 *electricity.*

35 ~~(d)~~

36 (e) “Facility rate” means the per kilowatthour rate, or some  
37 other unit of measurement that the commission determines to be  
38 superior to kilowatthours, established by the commission that is  
39 used to calculate the bill credit for a particular community  
40 renewable energy facility. The applicable facility rate for each

1 community renewable energy facility shall be computed pursuant  
2 to Section 2832.

3 ~~(e)~~

4 (f) “Interest” means a direct or indirect ownership, lease,  
5 subscription, or financing interest in a community renewable  
6 energy facility that enables the participant to receive a bill credit  
7 for a retail account with the electrical corporation.

8 ~~(f)~~

9 (g) “Local government” means a city, county, city and county,  
10 special district, school district, county office of education, political  
11 subdivision, or other local governmental entity.

12 ~~(g)~~

13 (h) “Participant” means a retail customer of an electrical  
14 corporation who owns, leases, finances, or subscribes to an interest  
15 in a community renewable energy facility and who has designated  
16 one or more of its own retail accounts as a benefiting account to  
17 which the subscription shall be attributed.

18 ~~(h)~~

19 (i) “Participant organization” means any entity whose purpose  
20 is to beneficially own or operate a community renewable energy  
21 facility for the participants or owners of that facility.

22 2832. (a) (1) A retail customer of an electrical corporation  
23 having 100,000 or more service connections within the state may  
24 acquire an interest in a community renewable energy facility for  
25 the purpose of becoming a participant and receiving a bill credit  
26 to offset all or a portion of the customer’s bill for electrical service.  
27 The participant shall designate one or more benefiting accounts  
28 to which the interest shall be attributed.

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

38 (3) A participant organization may beneficially own or operate  
39 a community renewable energy facility for the participants of that  
40 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 established  
16 in subparagraph (A) is not exceeded. When the statewide  
17 cumulative rated generation capacity of community renewable  
18 energy facilities reaches one and one-half gigawatts, the  
19 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 gigawatt  
24 limitation is no longer applicable. If the commission decides that  
25 the removal of the gigawatt limitation in subparagraph (A) would  
26 have a significant negative effect on the ratepayers of an electrical  
27 corporation, the commission shall decide if the limitation should  
28 remain at two gigawatts or if it should be raised to some other  
29 level. For the purposes of this subparagraph, the rated generating  
30 capacity of a community renewable energy facility shall, where  
31 available, use the Energy Commission's alternating current rating  
32 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 monthly  
38 charges, to the charges that the participant would be assigned if  
39 the participant did not receive a bill credit. Participants shall not  
40 be assessed standby charges on the community renewable energy

1 facility or the kilowatthour generation of a community renewable  
2 energy facility. Any new or additional demand charge, standby  
3 charge, customer charge, minimum monthly charge,  
4 interconnection charge, or any other charge that would increase a  
5 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  
12 renewables portfolio standard (RPS) solicitation method or added  
13 value 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~~ *on January*  
21 *1 of the previous* year for each electrical corporation for purposes  
22 of the report made to the Legislature pursuant to Section 911.  
23 Where data is not available for a comparable resource and facility  
24 size for the previous year, the most recent data shall be used. The  
25 facility rate shall be calculated on the basis of the price paid for a  
26 kilowatthour of electricity, unless the commission determines that  
27 some other unit of measurement is superior to using kilowatthours,  
28 in which case that unit of measurement will be used. The RPS  
29 solicitation method for computing the facility rate shall be  
30 determined as of the time that the community renewable energy  
31 facility becomes operational.

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

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

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

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

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

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

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

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

35 (2) The commission shall not regulate the prices paid for an  
36 interest in a community renewable energy facility, but may enforce  
37 the required disclosures.

38 (3) Participants may aggregate their loads for the purpose of  
39 participating in a community renewable energy facility pursuant  
40 to this section.

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

5 (c) (1) A participant organization shall provide to the electrical  
6 corporation information on the identity of the benefitting accounts  
7 that will receive a bill credit pursuant to this section not less than  
8 30 days prior to the billing cycle for which the participant's account  
9 will receive a bill credit. The participant organization shall provide  
10 the electrical corporation with not less than 30 days' notice  
11 whenever a participant's facility rate changes from the RPS  
12 solicitation method to the added value method.

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

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

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

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

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

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

34 (4) A participant organization shall be responsible for providing  
35 to the electrical corporation, on a monthly basis, a statement of  
36 the percentage shares to be used to determine the bill credit to each  
37 benefitting account and the names and account numbers of those  
38 participants who's facility rate is to be changed from the RPS  
39 solicitation method to the added value method. If there has been  
40 no change in the allocations from the previous submission or in

1 the method of calculating the facility rate of participants, the  
2 participant organization is not required to submit a new statement.

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

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

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

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

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

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

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

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

35 (e) The following process shall be used when billing and creating  
36 a benefiting account:

37 (1) An electrical corporation shall bill a benefiting account for  
38 all electricity usage, and for each applicable bill component,  
39 including but not limited to transmission and distribution charges,  
40 at the rate schedule applicable to the benefiting account, 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 Participants shall not be subject to any departing load charge.

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

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

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

19 (B) *If the participant's bill credit is calculated based on the*  
20 *added value method pursuant to subparagraph (B) of paragraph*  
21 *(6) of subdivision (a), the bill credit may exceed the generation*  
22 *component of the bill, but only by the amount of the added value.*  
23 *The added value shall be subtracted from the balance of the*  
24 *participant's bill remaining after credits are applied to the*  
25 *generation component of the bill. Any earned credit that exceeds*  
26 *the generation component of the bill shall roll over to the*  
27 *subsequent billing period and shall continue to roll over until used*  
28 *or until the annual anniversary date of the participant's initial bill*  
29 *credit, whichever occurs first. On the annual anniversary date of*  
30 *the participant's initial bill credit, any remaining bill credit earned*  
31 *during the previous year and that remains after the application of*  
32 *bill credits to the generation component of a participant's bills*  
33 *shall cease to roll over and will be subject to a default load*  
34 *aggregation point true-up. The default load aggregation point*  
35 *true-up shall be calculated by converting the remaining unused*  
36 *bill credits to kilowatthours, by dividing the unused bill credits by*  
37 *the facility rate, and then multiplying the kilowatthours by the*  
38 *default load aggregation point. The amount calculated doing the*  
39 *default load aggregation point true-up is owed by the electrical*  
40 *corporation to the participant. The commission shall determine*

1 *whether the default load aggregation point true-up is to be paid*  
2 *to participants or credited to future billings and, if so, the manner*  
3 *of crediting.*

4 ~~(f) Unless specifically provided otherwise in the contract~~  
5 ~~between the participant organization and the participant, any~~  
6 ~~renewable energy credits associated with an interest shall be retired~~  
7 ~~by the participant organization on behalf of the participant.~~  
8 ~~Renewable energy credits generated at a facility owned by an~~  
9 ~~electrical corporation, or associated with electricity paid for by~~  
10 ~~the electrical corporation shall be counted toward meeting that~~  
11 ~~electrical corporation's renewables portfolio standard. For purposes~~  
12 ~~of this subdivision, "renewable energy credit" and "renewables~~  
13 ~~portfolio standard" have the same meanings as defined in Section~~  
14 ~~399.12.~~

15 (g) In calculating its procurement requirements to meet the  
16 requirements of the California Renewables Portfolio Standard  
17 Program (Article 16 (commencing with Section 399.11) of Chapter  
18 2.3 of Part 1), an electrical corporation may exclude from total  
19 retail sales the kilowatthours generated by a community renewable  
20 energy facility.

21 ~~(h) A community renewable energy facility that is interconnected~~  
22 ~~at the distribution level shall be treated as being deliverable to load~~  
23 ~~for the purposes of Section 380. The generating capacity of a~~  
24 ~~community renewable energy facility shall be counted toward~~  
25 ~~meeting the resource adequacy requirements adopted by the~~  
26 ~~commission pursuant to Section 380.~~

27 (h) *The resource value attributable to a community renewable*  
28 *energy facility, as determined by the commission pursuant to*  
29 *Section 380, shall be assigned to the electrical corporation to*  
30 *which the facility is interconnected.*

31 SEC. 7. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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