

AMENDED IN ASSEMBLY AUGUST 6, 2012

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**

---

---

**Introduced by Senator Wolk**  
**(Coauthors: Senators Corbett and Pavley)**  
*(Coauthors: Assembly Members Huffman and Skinner)*

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~~ *the local government renewable energy self-generation program* 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.

(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.

(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.

(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) The ownership, control, operation, or management of a  
37 facility that supplies electricity to the public only for use to charge  
38 light duty plug-in electric vehicles does not make the corporation  
39 or person a public utility within the meaning of this section solely  
40 because of that ownership, control, operation, or management. For

1 purposes of this subdivision, “light duty plug-in electric vehicles”  
2 includes light duty battery electric and plug-in hybrid electric  
3 vehicles. This subdivision does not affect the commission’s  
4 authority under Section 454 or 740.2 or any other applicable statute.

5 (j) A corporation or person engaged directly or indirectly in  
6 developing, producing, delivering, participating in, or selling  
7 interests in a community *renewable energy* facility, pursuant to  
8 Chapter 7.5 (commencing with Section 2830) of Part 2, is not a  
9 public utility within the meaning of this section solely by reason  
10 of engaging in any of those activities.

11 SEC. 3. Section 218 of the Public Utilities Code is amended  
12 to read:

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

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

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

24 (2) The use of or sale to not more than two other corporations  
25 or persons solely for use on the real property on which the  
26 electricity is generated or on real property immediately adjacent  
27 thereto, unless there is an intervening public street constituting the  
28 boundary between the real property on which the electricity is  
29 generated and the immediately adjacent property and one or more  
30 of the following applies:

31 (A) The real property on which the electricity is generated and  
32 the immediately adjacent real property is not under common  
33 ownership or control, or that common ownership or control was  
34 gained solely for purposes of sale of the electricity so generated  
35 and not for other business purposes.

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

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

4 (3) Sale or transmission to an electrical corporation or state or  
5 local public agency, but not for sale or transmission to others,  
6 unless the corporation or person is otherwise an electrical  
7 corporation.

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

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

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

16 (3) Sale or transmission to an electrical corporation or state or  
17 local public agency.

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

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

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

26 (3) Sale or transmission to an electrical corporation or state or  
27 local public agency, if the sale or transmission of the electricity  
28 service to a retail customer is provided through the transmission  
29 system of the existing local publicly owned electric utility or  
30 electrical corporation of that retail customer.

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

34 (f) The amendments made to this section at the 1987 portion of  
35 the 1987–88 Regular Session of the Legislature do not apply to  
36 any corporation or person employing cogeneration technology or  
37 producing power from other than a conventional power source for  
38 the generation of electricity that physically produced electricity  
39 prior to January 1, 1989, and furnished that electricity to

1 immediately adjacent real property for use thereon prior to January  
2 1, 1989.

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

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

10 SEC. 5. Chapter 7.5 (commencing with Section 2830) of Part  
11 2 of Division 1 of the Public Utilities Code is repealed.

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

14  
15 CHAPTER 7.5. COMMUNITY-BASED RENEWABLE ENERGY  
16 SELF-GENERATION PROGRAM  
17

18 2830. The Legislature finds and declares all of the following:

19 (a) The Governor has proposed a Clean Energy Jobs Plan calling  
20 for the development of 12,000 megawatts of generation from  
21 distributed eligible renewable energy resources of up to 20  
22 megawatts in size by 2020. ~~The Legislature recognizes the  
23 advantages of this proposal as distributed generation provides  
24 benefits in addition to the environmental benefits, including  
25 reduced electrical line losses, decreased investment in transmission  
26 and distribution infrastructure, easier permitting, and local  
27 economic benefits.~~ There is widespread interest from many large  
28 institutional customers, including schools, colleges, universities,  
29 local governments, businesses, and the military, for development  
30 of distributed energy facilities to serve their needs. For these  
31 reasons the Legislature agrees that the Governor’s distributed  
32 energy program represents a desired policy direction for the state.

33 (b) Community-based renewable energy self-generation creates  
34 jobs, reduces emissions of greenhouse gases, *and* promotes energy  
35 independence, ~~and will assist in meeting the state’s zero net energy  
36 buildings goals.~~ Further, community-based renewable energy  
37 self-generation will enable schools, colleges, universities, local  
38 governments, businesses, and consumers to save money on their  
39 electricity bills, thereby helping to fund educational programs,  
40 social services, and new hiring.

1 (c) The California Solar Initiative has been extremely successful,  
2 resulting in over 100,000 residential and commercial ~~on-site~~ *onsite*  
3 installations of solar energy systems. The Community-Based  
4 Renewable Energy Self-Generation Program seeks to build on this  
5 success by dramatically expanding the market for eligible  
6 renewable energy resources to include residential and commercial  
7 renters, residential and commercial buildings with shaded or  
8 improperly oriented roofs, and other groups who are unable to  
9 access the benefits of onsite generation. ~~It is in the public interest~~  
10 ~~to promote broader participation in self-generation by California~~  
11 ~~residents, public agencies, and businesses by the development of~~  
12 ~~community renewable energy self-generation facilities in which~~  
13 ~~participants are entitled to generate electricity and receive credit~~  
14 ~~for that electricity on their utility bills.~~

15 (d) Many institutional customers in California have been focused  
16 on distributed energy programs of their own. For example, the  
17 Secretary of the Navy established as policy that 50 percent of the  
18 on-shore electricity for naval and Marine Corps installations in  
19 the United States be from renewable sources by 2020. To  
20 implement this policy the Navy and Marine Corps have been  
21 working on a variety of renewable generation projects within the  
22 1 megawatt to 20 megawatt range. The military installations, and  
23 other institutional users, have identified a number of regulatory  
24 barriers to implementing distributed generation projects. The  
25 enactment of this chapter will create a mechanism whereby  
26 institutional customers such as military installations, universities,  
27 and local governments, as well as groups of individuals, can  
28 efficiently invest in generating electricity from eligible renewable  
29 energy resources.

30 (e) It is the intent of the Legislature that public schools have  
31 the authority to invest in community renewable energy facilities  
32 to generate electricity as provided in this chapter. Electricity usage  
33 is one of the most significant cost pressures facing public schools  
34 at a time when schools have been forced to cut essential programs,  
35 increase classroom sizes, and send pink slips to teachers throughout  
36 the state. Schools may use the savings for restoring funds for  
37 salaries, student achievement, facility maintenance, and other  
38 budgetary needs. The community renewable energy facility projects  
39 that go forward pursuant to this chapter will create new  
40 construction jobs, stimulate the economy, generate funding, and

1 provide more electricity generated by clean, renewable sources to  
2 customers.

3 (f) It is the further intent of the Legislature that, as the  
4 commission works to implement this chapter, ~~that~~ the commission  
5 carefully consider regulatory barriers to distributed generation  
6 projects already identified and those not yet identified, and quickly  
7 address those barriers in a manner that is conducive to the  
8 development of distributed generation projects consistent with  
9 appropriate ratepayer protections.

10 (g) *It is further the intent of the Legislature that the commission*  
11 *work to maintain ratepayer indifference to nonbeneficiaries,*  
12 *reflecting both the costs and benefits such systems provide to the*  
13 *residents of California.*

14 2831. As used in this chapter, the following terms have the  
15 following meanings:

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

18 (b) “Bill credit” means an amount of money credited each  
19 month, or in an otherwise applicable billing period, to one or more  
20 benefiting accounts based on the percentage share of the *electrical*  
21 *output of a* community renewable energy facility that is assigned  
22 to the account pursuant to the methodology described in Section  
23 2832.

24 (c) “Community renewable energy facility” means a facility for  
25 the generation of electricity that meets all of the following  
26 requirements:

27 (1) Has a generating capacity of no more than 20 megawatts *of*  
28 *alternating current.*

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

32 (3) The electrical output of the facility is measured by a  
33 production meter ~~capable of recording electrical generation in real~~  
34 ~~time~~ *owned by the electrical corporation, that meets the tariff*  
35 *requirements of the electrical corporation and the Independent*  
36 *System Operator.*

37 (4) Is located within the service territory of an electrical  
38 corporation having 100,000 or more service connections ~~in~~  
39 ~~California.~~

1 (5) ~~If it is to interconnect to the electrical grid at the transmission~~  
2 ~~level of the grid, it has applied for interconnection through the~~  
3 ~~Independent System Operators' generation interconnection process~~  
4 *Has complied with standard interconnection operation*  
5 *requirements of the electrical corporation, and where applicable,*  
6 *the Independent System Operator, consistent with any applicable*  
7 *tariffs.*

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

11 (d) "Default load aggregation point" means a calculation, as  
12 determined by the commission, of avoided cost derived from an  
13 hourly day-ahead electricity market price that reflects the costs  
14 the electrical corporation avoids in procuring electricity during the  
15 time period a community renewable energy facility generates  
16 electricity.

17 (e) "Facility rate" means the per kilowatthour rate, ~~or some~~  
18 ~~other unit of measurement that the commission determines to be~~  
19 ~~superior to kilowatthours, established by the commission that is~~  
20 ~~used to calculate the bill credit for a particular community~~  
21 ~~renewable energy facility. The applicable facility rate for each~~  
22 ~~community renewable energy facility shall be computed pursuant~~  
23 ~~to Section 2832. The facility rate shall be set using the method~~  
24 ~~described in subparagraph (A) of paragraph (6) of subdivision (a)~~  
25 ~~of Section 2832. That method shall be used to calculate the~~  
26 ~~minimum value for the bill credit for each participant with an~~  
27 ~~interest in the community renewable energy facility. This minimum~~  
28 ~~value may be replaced by the methodology for calculating the~~  
29 ~~added value of the generation, when applicable, pursuant to~~  
30 ~~subparagraph (B) of paragraph (6) of subdivision (a) of Section~~  
31 ~~2832.~~

32 (f) "Interest" means a direct or indirect ownership, lease,  
33 subscription, or financing interest in a community renewable  
34 energy facility that enables the participant to receive a bill credit  
35 for a retail account with the electrical corporation.

36 (g) "Local government" means a city, county, city and county,  
37 special district, school district, *public water district, public*  
38 *irrigation district*, county office of education, political subdivision,  
39 or other local governmental entity. *For the purposes of this chapter,*  
40 *"water district" has the same meaning as defined in Section 20200*

1 *of the Water Code, and “irrigation district” means an entity formed*  
2 *pursuant to the Irrigation District Law set forth in Division 11*  
3 *(commencing with Section 20500) of the Water Code.*

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

9 (i) “Participant organization” means any entity whose purpose  
10 is to beneficially own or operate a community renewable energy  
11 facility for the participants or owners of that facility. A “*participant*  
12 *organization*” can also be a “*participant*” as defined in subdivision  
13 (h).

14 2832. (a) (1) A retail customer of an electrical corporation  
15 having 100,000 or more service connections within the state may  
16 acquire an interest in a community renewable energy facility for  
17 the purpose of becoming a participant and receiving a bill credit  
18 to offset all or a portion of the customer’s bill for *the generation*  
19 *component of that customer’s* electrical service. The participant  
20 shall designate one or more benefiting accounts to which the  
21 interest shall be attributed.

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

31 (3) A participant organization may *construct a community*  
32 *renewable energy facility on a site chosen by the participant*  
33 *organization and may* beneficially own or operate a community  
34 renewable energy facility for the participants of that facility. A  
35 community renewable energy facility may be built, owned, or  
36 operated by a third party under contract with a participant  
37 organization.

38 (4) (A) The combined statewide cumulative rated generating  
39 capacity of community renewable energy facilities under this

1 program shall not exceed ~~2~~ two gigawatts, except as provided by  
2 in subparagraph (B).

3 (B) The commission shall maintain a publicly available database  
4 of existing and proposed community renewable energy facilities.  
5 Proposed community renewable energy facilities shall report their  
6 expected size, location, and commercial operation date no less  
7 than six months prior to their commercial operation date. ~~One~~  
8 ~~the statewide cumulative rated generation capacity of existing and~~  
9 ~~proposed community renewable energy facilities reaches one~~  
10 ~~gigawatt, the commission shall establish a process for allocating~~  
11 ~~the remaining one gigawatt of capacity to ensure the cap established~~  
12 ~~in subparagraph (A) is not exceeded.~~ When the statewide  
13 cumulative rated generation capacity of community renewable  
14 energy facilities reaches one and one-half gigawatts, the  
15 commission shall begin a process to determine if the gigawatt  
16 limitation in subparagraph (A) is necessary. Unless the commission  
17 determines that removal of the gigawatt limitation in subparagraph  
18 (A) would have a significant negative effect on electrical  
19 corporation ratepayers, the commission shall order that the gigawatt  
20 limitation is no longer applicable. If the commission decides that  
21 the removal of the gigawatt limitation in subparagraph (A) would  
22 have a significant negative effect on the ratepayers of ~~an the~~  
23 ~~electrical corporation~~ *corporations*, the commission shall decide  
24 if the limitation should remain at two gigawatts or if it should be  
25 raised to some other level. For the purposes of this subparagraph,  
26 the rated generating capacity of a community renewable energy  
27 facility shall, where available, use the Energy Commission's  
28 alternating current rating for the facility. *If the commission*  
29 *determines that the two gigawatt cap shall remain in effect, the*  
30 *commission shall establish a process for allocating the remaining*  
31 *500 megawatts of capacity to ensure the cap established in*  
32 *subparagraph (A) is not exceeded.*

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~~ *The* facility rate shall be set at the weighted average  
17 time-of-delivery adjusted cost of electricity ~~delivered from an~~  
18 *established in the commission's Renewables Portfolio Standard*  
19 *Quarterly Report, 4th Quarter 2011, Cost Reporting in Compliance*  
20 *with SB 836, published in the first quarter of the previous year,*  
21 *for eligible renewable energy resource resources of comparable*  
22 *size that utilizes to, and utilizing the same generating technology*  
23 *as, employed by the community renewable energy facility,*  
24 *calculated on January 1 of the previous year for each electrical*  
25 *corporation for purposes of the report made to the Legislature*  
26 *pursuant to Section 911 and that are under contract with the*  
27 *electrical corporation.* Where data is not available for a comparable  
28 resource and facility size for the previous year, the most recent  
29 data shall be used. ~~The facility rate shall be calculated on the basis~~  
30 ~~of the price paid for a kilowatthour of electricity, unless the~~  
31 ~~commission determines that some other unit of measurement is~~  
32 ~~superior to using kilowatthours, in which case that unit of~~  
33 ~~measurement will be used. The RPS solicitation method for~~  
34 ~~computing the facility rate shall be determined as of the time that~~  
35 ~~the community renewable energy facility becomes operational.~~  
36 *The facility rate shall be the price per kilowatthour of electricity*  
37 *and shall be determined as of the time that the community*  
38 *renewable energy facility becomes operational. Once established,*  
39 *a facility rate shall be applicable to that facility for the operational*  
40 *life of the facility. A subsequent facility or a subsequent*

1 *modification to a facility placed in service January 1, 2013, that*  
2 *results in an increase in the facility's capacity to produce electricity*  
3 *shall be subject to the facility rate in effect on the date the*  
4 *subsequent facility or capacity commences commercial operation.*  
5 *The commission shall publish an individual facility rate tariff*  
6 *applicable to all participants per electrical corporation no later*  
7 *than 90 days following the enactment of the act that created this*  
8 *subparagraph.*

9 (B) Not later than December 31, 2014, the commission shall  
10 ~~determine the added value method for calculating a facility rate.~~  
11 ~~Pursuant to the added value method, the facility rate shall be set~~  
12 ~~at the monetary value of the the methodology for calculating the~~  
13 ~~added value used to determine the participant's bill credit. In~~  
14 ~~determining the added value, the commission shall determine the~~  
15 ~~amount of monetary costs and benefits a community renewable~~  
16 ~~energy facility brings to the electrical corporation, other~~  
17 ~~nonparticipating ratepayers, and the grid. In determining the added~~  
18 ~~value, the commission shall analyze the costs and benefits,~~  
19 ~~including, but not limited to, avoided transmission line loss,~~  
20 ~~avoided transmission and distribution infrastructure costs, any~~  
21 ~~reduction in fixed operations and maintenance costs, the offset of~~  
22 ~~peak demand or shifting load, and the reduction of environmental~~  
23 ~~compliance costs, including costs that would otherwise be incurred~~  
24 ~~for reducing emissions of greenhouse gases. The net value of these~~  
25 ~~the costs and benefits derived from a community renewable energy~~  
26 ~~facility shall be denominated in a monetary amount per~~  
27 ~~kilowatthour of production and shall be added to the otherwise~~  
28 ~~applicable generation component of the participant's electric~~  
29 ~~service rate. The commission shall reevaluate the facility rate using~~  
30 ~~the added value method every three years, and shall establish a~~  
31 ~~new added value if the commission determines that there has been~~  
32 ~~a material change in the added value of the community renewable~~  
33 ~~energy facility. Once the commission determines the monetary~~  
34 ~~amount of the net costs and benefits of a community renewable~~  
35 ~~energy facility, that value shall be set for the operational life of~~  
36 ~~that facility. This value shall be multiplied by a participant's~~  
37 ~~interest in a community renewable energy facility to determine the~~  
38 ~~participant's bill credit, if both of the following are true:~~

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

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

4 (i) The commission has determined ~~a facility rate~~ *an added*  
5 *value* for the community renewable energy facility using the added  
6 value method.

7 (ii) The bill credit that will be provided *to a participant* using  
8 the added value method is greater than the credit provided by  
9 continued use of the ~~RPS solicitation method~~ *facility rate*.

10 ~~(8) The electrical corporation shall provide a monthly bill credit,~~  
11 ~~valued in dollars, to each benefiting account. The bill credit amount~~  
12 ~~shall be calculated as the volumetric quantity of generation~~  
13 ~~allocated to the benefiting account multiplied by the facility rate.~~  
14 ~~The volumetric quantity of generation shall be expressed in~~  
15 ~~kilowatthours, unless the commission determines that another unit~~  
16 ~~of measurement is superior to use in place of kilowatthours.~~

17 ~~(C) The commission shall reevaluate the added value~~  
18 ~~methodology every three years.~~

19 ~~(D) The commission shall endeavor to calculate the added value~~  
20 ~~bill credit so that the program goals, including nonbeneficiary~~  
21 ~~ratepayer indifference, can reasonably be expected to be met.~~

22 (b) (1) A participant shall not acquire an interest in a community  
23 renewable energy facility that represents more than ~~2~~ *two*  
24 megawatts of generating capacity *or the equivalent amount, as*  
25 *denominated in kilowatthours*. This limitation does not apply to a  
26 federal, state, or local government, school, school district, county  
27 office of education, the California Community Colleges, the  
28 California State University, or the University of California.

29 (2) The commission shall not regulate the prices paid for an  
30 interest in a community renewable energy facility, but may enforce  
31 the required disclosures, *and may establish rules applicable to*  
32 *participant organizations to ensure consumer protection*.

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

36 (4) For a participant that elects to aggregate its loads for the  
37 purpose of acquiring an interest in a community renewable energy  
38 facility, the participant shall designate the ~~benefitting~~ *benefiting*  
39 accounts and the allocation of the bill credit to those accounts.

1 (c) (1) A participant organization shall provide to the electrical  
2 corporation information on the identity of the benefiting accounts  
3 that will receive a bill credit pursuant to this section not less than  
4 30 days prior to the billing cycle for which the participant's account  
5 will receive a bill credit. The participant organization shall provide  
6 the electrical corporation with not less than 30 days' notice  
7 whenever a participant's facility rate changes from the RPS  
8 solicitation method to the added value method.

9 (2) Prior to the sale *or resale* of an interest in a community  
10 renewable energy facility, the participant organization *or the*  
11 *participant, or both*, shall provide a disclosure to the potential  
12 participant that, at a minimum, includes all of the following:

13 (A) A good faith estimate of the annual kilowatthours to be  
14 delivered by the community renewable energy facility based on  
15 the size of the interest.

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

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

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

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

30 (4) A participant organization shall be responsible for providing  
31 to the electrical corporation, on a monthly basis, a statement of  
32 the percentage shares to be used to determine the bill credit to each  
33 benefiting account and the names and account numbers of those  
34 participants ~~who's facility rate is to be changed from the RPS~~  
35 ~~solicitation method to the added value method~~ *whose bill credit is*  
36 *to be calculated using the added value method instead of the facility*  
37 *rate*. If there has been no change in the allocations from the  
38 previous submission or in the method of calculating the ~~facility~~  
39 ~~rate~~ *bill credit* of participants, the participant organization is not  
40 required to submit a new statement.

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

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

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

13 ~~(8) The participant organization shall be responsible for all costs~~  
14 ~~of interconnection at either the distribution or transmission level~~  
15 ~~of the electrical grid. *The interconnection process and cost*~~  
16 ~~*allocation for facilities built under this section shall be determined*~~  
17 ~~*by applicable rules for interconnection established by the*~~  
18 ~~*commission. The facility owner shall be responsible for grid use*~~  
19 ~~*and management fees, imbalance charges, or other costs allocated*~~  
20 ~~*by the Independent System Operator.*~~

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

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

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

34 (4) ~~For capacity energy that is unallocated to a benefiting~~  
35 ~~benefiting account during the previous billing period, the recipient~~  
36 ~~electrical corporation shall pay the facility operator participant~~  
37 ~~organization the current default load aggregation point and receive~~  
38 ~~any renewable energy credits associated with that energy.~~

39 (e) The following process shall be used when billing and ~~creating~~  
40 ~~crediting~~ a benefiting account:

1 (1) An electrical corporation shall bill a benefiting account for  
2 all electricity usage, and for each applicable bill component,  
3 including but not limited to transmission and distribution charges,  
4 at the rate schedule applicable to the benefiting account, including  
5 any cost-responsibility surcharge or other cost recovery mechanism,  
6 as determined by the commission, to reimburse the Department  
7 of Water Resources for purchases of electricity pursuant to Division  
8 27 (commencing with Section 80000) of the Water Code.  
9 Participants shall not be subject to any departing load charge.

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

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

19 (4) (A) If, at the end of a billing cycle, the bill credit exceeds  
20 the generation component of the amount billed to the account, the  
21 difference shall be carried forward as a dollar credit to the next  
22 billing cycle.

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

1 *whichever is applicable on the anniversary date, either the facility*  
2 *rate, or the sum of added value and the participant's otherwise*  
3 *applicable generation component, and then multiplying the*  
4 *kilowatthours by the default load aggregation point. The amount*  
5 *calculated doing the default load aggregation point true-up is owed*  
6 *by the electrical corporation to the participant. The commission*  
7 *shall determine whether the default load aggregation point true-up*  
8 *is to be paid to participants or credited to future billings and, if so,*  
9 *the manner of crediting.*

10 (f) Any renewable energy credits associated with an interest  
11 shall *either* be retired by the participant organization on behalf of  
12 the participant *or transferred to the Western Renewable Energy*  
13 *Generation Information System account of that participant, for*  
14 *the purpose of demonstrating the purchase of renewable energy.*  
15 *Those renewable energy credits shall not be further sold,*  
16 *transferred, or otherwise monetized by a party for any purpose.*  
17 ~~Renewable energy credits generated at a facility owned by an~~  
18 ~~electrical corporation, or~~ associated with electricity paid for by the  
19 electrical corporation shall be counted toward meeting that  
20 electrical corporation's renewables portfolio standard. For purposes  
21 of this subdivision, "renewable energy credit" and "renewables  
22 portfolio standard" have the same meanings as defined in Section  
23 399.12.

24 (g) In calculating its procurement requirements to meet the  
25 requirements of the California Renewables Portfolio Standard  
26 Program (Article 16 (commencing with Section 399.11) of Chapter  
27 2.3 of Part 1), an electrical corporation may exclude from total  
28 retail sales the kilowatthours generated by a community renewable  
29 energy facility.

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

34 SEC. 7. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 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.

O