

AMENDED IN ASSEMBLY AUGUST 19, 2014

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN ASSEMBLY JUNE 27, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 38

Introduced by Senator ~~De León~~ Padilla

December 5, 2012

An act to ~~add Section 30009 to the Penal Code, relating to firearms.~~ amend Sections 63010, 63025.1, 63041.5, 63043, 63048.3, 63048.56, 63048.7, 63049.2, 63049.62, 63049.64, 63049.67, and 63071 of, and to repeal Article 4 (commencing with Section 63042) of Chapter 2 of Division 1 of Title 6.7 of, the Government Code, to amend Sections 331, 332.1, 341.5, 348, 349.5, 359, 365, 368, 369, 370, 371, 372, 374, 379, 394.5, 395, 399.2, 2827, 9600, and 9607 of, to repeal Sections 330, 350, 355, 356, 361, 363, 367, 367.7, 368.5, 373, 374.5, 375, 376, 390, 390.1, and 397 of, and to repeal Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of, the Public Utilities Code, and to amend Section 31071.5 of the Streets and Highways Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 38, as amended, ~~De León~~ Padilla. ~~Firearms: prohibited persons.~~ Electrical restructuring.

The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator and a Power Exchange as nonprofit public benefit

corporations. Existing law requires the Independent System Operator, within 6 months after receiving approval for its operation by the Federal Energy Regulatory Commission, to provide a report to the Legislature and the Electricity Oversight Board containing specified matter.

This bill would repeal this reporting requirement, and would abolish the Power Exchange.

Electrical restructuring makes legislative findings and declarations in order to provide guidance to the Public Utilities Commission in carrying out restructuring.

This bill repeals those legislative findings and declarations.

Electrical restructuring states the intent of the Legislature that individual customers not experience rate increases as a result of the allocation of transition costs, as specified, and requires the Public Utilities Commission to implement a methodology for calculating certain Power Exchange energy credits.

This bill would repeal this provision.

Electrical restructuring required the commission to identify and determine those costs and categories of costs for generation-related assets and obligations that were being collected in commission-approved rates on December 20, 1995, that might become uneconomic as a result of a competitive generation market. Electrical restructuring requires each electrical corporation to propose a cost recovery plan to the commission for the recovery of the uneconomic costs of an electrical corporation's generation-related assets and obligations, requires that the plan contain specified matter, and requires that the plan set rates for each customer class, rate schedule, contract, or tariff option, at levels equal to the level as shown on electric rate schedules as of June 10, 1996, provided that rates for residential and small commercial customers be reduced so that these customers receive rate reductions of no less than 10% for 1998 continuing through 2002. Electrical restructuring prohibits the commission, upon the termination of the 10% rate reduction for residential and small commercial customers, from subjecting those residential and small commercial customers to any rate increase or future rate obligations solely as a result of the termination of the 10% rate reduction. Electrical restructuring authorizes an electrical corporation to apply to the commission for a determination that certain transition costs, as defined, may be recovered through fixed transition amounts, which constitute transition property, as defined, and provides, until December 31, 2015, for the issuance of financing orders by the commission, and provides for the issuance of

rate reduction bonds utilizing the California Infrastructure and Economic Development Bank, to be repaid out of rates.

This bill would repeal these provisions.

Electrical restructuring requires the commission to establish an effective mechanism that ensures recovery of specified transition costs from all existing and future consumers in the service territory in which the utility provided electricity services as of December 20, 1995, except that the costs shall not be recoverable for new customer load or incremental load of an existing customer where the load is being met through a direct transaction and the transaction does not otherwise require the use of transmission or distribution facilities owned by the utility.

This bill would provide that competition transition charges that are authorized by the commission prior to January 1, 2015, continue to apply to all existing and future consumers in the service territory in which the utility provided electricity services as of December 20, 1995, subject to the exception described above.

Electrical restructuring directed the commission to authorize direct transactions between electricity suppliers and end-use customers, subject to implementation of nonbypassable charges, as specified. Other provisions reference these charges as a nonbypassable charge, while other provisions reference these charges as an obligation to pay uneconomic costs, as specified.

This bill would replace the various references to the specified statutory charges with “competition transition charges.”

Electrical restructuring requires any electrical corporation serving agricultural customers with multiple meters to conduct research based on a statistically valid sample of those customers and meters to determine the typical simultaneous peak load of those customers and to report the results to those customers and the commission by July 1, 2001. Electrical restructuring requires the commission to consider the research results in setting future electrical distribution rates for those customers.

This bill would repeal this provision.

Electrical restructuring requires the commission to allow recovery of reasonable employee related transition costs incurred and projected for severance, retraining, early retirement, outplacement, and related expenses for the employees in order to mitigate potential negative impacts on utility personnel directly affected by restructuring.

This bill would repeal this provision.

Existing law requires, for an electric generating facility sold by an electrical corporation in a transaction initiated prior to December 31, 2001, and approved by the commission by December 31, 2002, that the selling utility contract with the purchaser for the selling utility, an affiliate, or a successor corporation to operate and maintain the facility for at least 2 years, and authorizes the commission to require these conditions for transactions initiated on or after January 1, 2002.

This bill would repeal this provision.

Existing law, enacted as part of restructuring, prescribes how energy prices paid to nonutility electrical generators, known as qualifying facilities under federal law, by an electrical corporation based on the commission's "short run avoided cost energy methodology" are to be determined, subject to applicable contractual terms. Existing law authorizes a nonutility electrical generator using renewable fuels that entered into a contract with an electrical corporation prior to December 31, 2001, specifying fixed energy prices for 5 years of electrical output to negotiate a contract of an additional 5 years of fixed energy payments upon expiration of the initial 5-year term, at a price to be determined by the commission.

This bill would repeal this provision.

This bill would repeal a provision authorizing an electrical corporation that was also a gas corporation that served fewer than 4,000,000 customers as of December 20, 1995, to file a rate cap mechanism that includes a Fuel Price Index Mechanism, as specified, which authorization became inoperative on December 31, 2001.

This bill would strike references to these repealed statutes.

~~Existing law requires the Attorney General to establish and maintain an online database, known as the Prohibited Armed Persons File, to cross-reference persons who have ownership or possession of a firearm and who, subsequent to the date of that ownership or possession, became a person who is prohibited from owning or possessing a firearm.~~

~~This bill would, no later than January 1, 2015, require the Department of Justice to establish a 30-day amnesty period during which a person prohibited from possessing a firearm may surrender his or her firearms to a local law enforcement agency without being charged with illegal possession of a firearm, except as specified. The bill would require the department to provide written notification of the amnesty period to prohibited persons who are eligible to participate in the amnesty period, and would require the notification to include certain information. The bill would require a local law enforcement agency that receives a firearm~~

~~from a prohibited person during the amnesty period to report specified information to the department and to sell or destroy surrendered firearms, as provided. The bill would require the department to use the specified information provided by the local law enforcement agency to create a record of each surrendered firearm in the Prohibited Armed Persons File. The bill would also impose a civil fine of up to \$2,500 per firearm on a person prohibited from possessing a firearm and who is eligible for the amnesty program who still maintains possession of his or her firearm after the amnesty period. The bill would specify that a prohibited person shall not be charged with illegal possession of a firearm, nor be subject to the fine, if he or she provides evidence satisfactory to the department that he or she lawfully surrendered his or her firearm prior to the commencement of the amnesty period. Because this bill would impose additional duties on local law enforcement agencies, this bill would create a state-mandated local program.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

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

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

- 1 SECTION 1. Section 63010 of the Government Code is
- 2 amended to read:
- 3 63010. For purposes of this division, the following words and
- 4 terms shall have the following meanings unless the context clearly
- 5 indicates or requires another or different meaning or intent:
- 6 (a) “Act” means the Bergeson-Peace Infrastructure and
- 7 Economic Development Bank Act.
- 8 (b) “Bank” means the California Infrastructure and Economic
- 9 Development Bank.
- 10 (c) “Board” or “bank board” means the Board of Directors of
- 11 the California Infrastructure and Economic Development Bank.

1 (d) “Bond purchase agreement” means a contractual agreement
2 executed between the bank and a sponsor, or a special purpose
3 trust authorized by the bank or a sponsor, or both, whereby the
4 bank or special purpose trust authorized by the bank agrees to
5 purchase bonds of the sponsor for retention or sale.

6 (e) “Bonds” means bonds, including structured, senior, and
7 subordinated bonds or other securities; loans; notes, including
8 bond, revenue, tax, or grant anticipation notes; commercial paper;
9 floating rate and variable maturity securities; and any other
10 evidences of ~~indebtedness or ownership~~, *indebtedness* including
11 certificates of participation or beneficial interest, asset backed
12 certificates, or lease-purchase or installment purchase agreements,
13 whether taxable or excludable from gross income for federal
14 income taxation purposes.

15 (f) “Cost,” as applied to a project or portion thereof financed
16 under this division, means all or any part of the cost of construction,
17 renovation, and acquisition of all lands, structures, real or personal
18 property, rights, rights-of-way, franchises, licenses, easements,
19 and interests acquired or used for a project; the cost of demolishing
20 or removing any buildings or structures on land so acquired,
21 including the cost of acquiring any lands to which the buildings
22 or structures may be moved; the cost of all machinery, equipment,
23 and financing charges; interest prior to, during, and for a period
24 after completion of construction, renovation, or acquisition, as
25 determined by the bank; provisions for working capital; reserves
26 for principal and interest and for extensions, enlargements,
27 additions, replacements, renovations, and improvements; and the
28 cost of architectural, engineering, financial and legal services,
29 plans, specifications, estimates, administrative expenses, and other
30 expenses necessary or incidental to determining the feasibility of
31 any project or incidental to the construction, acquisition, or
32 financing of any project, ~~and transition costs in the case of an
33 electrical corporation.~~ *project*.

34 (g) “Economic development facilities” means real and personal
35 property, structures, buildings, equipment, and supporting
36 components thereof that are used to provide industrial, recreational,
37 research, commercial, utility, or service enterprise facilities,
38 community, educational, cultural, or social welfare facilities and
39 any parts or combinations thereof, and all facilities or infrastructure

1 necessary or desirable in connection therewith, including provision
2 for working capital, but shall not include any housing.

3 (h) “Electrical corporation” has the meaning set forth in Section
4 218 of the Public Utilities Code.

5 (i) “Executive director” means the Executive Director of the
6 California Infrastructure and Economic Development Bank
7 appointed pursuant to Section 63021.

8 (j) “Financial assistance” in connection with a project, includes,
9 but is not limited to, any combination of grants, loans, the proceeds
10 of bonds issued by the bank or special purpose trust, insurance,
11 guarantees or other credit enhancements or liquidity facilities, and
12 contributions of money, property, labor, or other things of value,
13 as may be approved by resolution of the board or the sponsor, or
14 both; the purchase or retention of bank bonds, the bonds of a
15 sponsor for their retention or for sale by the bank, or the issuance
16 of bank bonds or the bonds of a special purpose trust used to fund
17 the cost of a project for which a sponsor is directly or indirectly
18 liable, including, but not limited to, bonds, the security for which
19 is provided in whole or in part pursuant to the powers granted by
20 Section 63025; bonds for which the bank has provided a guarantee
21 or enhancement, including, but not limited to, the purchase of the
22 subordinated bonds of the sponsor, the subordinated bonds of a
23 special purpose trust, or the retention of the subordinated bonds
24 of the bank pursuant to Chapter 4 (commencing with Section
25 63060); or any other type of assistance deemed appropriate by the
26 bank or the sponsor, except that no direct loans shall be made to
27 nonpublic entities other than ~~in connection with the issuance of~~
28 ~~rate reduction bonds pursuant to a financing order or in connection~~
29 ~~with a financing for an economic development facility.~~

30 For purposes of this subdivision, “grant” does not include grants
31 made by the bank except when acting as an agent or intermediary
32 for the distribution or packaging of financing available from
33 federal, private, or other public sources.

34 ~~(k) “Financing order” has the meaning set forth in Section 840~~
35 ~~of the Public Utilities Code.~~

36 ~~(l)~~

37 (k) “Guarantee trust fund” means the California Infrastructure
38 Guarantee Trust Fund.

39 ~~(m)~~

1 (l) “Infrastructure bank fund” means the California Infrastructure
2 and Economic Development Bank Fund.

3 ~~(n)~~

4 (m) “Loan agreement” means a contractual agreement executed
5 between the bank or a special purpose trust and a sponsor that
6 provides that the bank or special purpose trust will loan funds to
7 the sponsor and that the sponsor will repay the principal and pay
8 the interest and redemption premium, if any, on the loan.

9 ~~(o)~~

10 (n) “Participating party” means any person, company,
11 corporation, association, state or municipal governmental entity,
12 partnership, firm, or other entity or group of entities, whether
13 organized for profit or not for profit, engaged in business or
14 operations within the state and that applies for financing from the
15 bank in conjunction with a sponsor for the purpose of implementing
16 a project. ~~However, in the case of a project relating to the financing~~
17 ~~of transition costs or the acquisition of transition property, or both,~~
18 ~~on the request of an electrical corporation, or in connection with~~
19 ~~a financing for an economic development facility, or for the~~
20 ~~financing of insurance claims, the participating party shall be~~
21 ~~deemed to be the same entity as the sponsor for the financing.~~

22 ~~(p)~~

23 (o) “Project” means designing, acquiring, planning, permitting,
24 entitling, constructing, improving, extending, restoring, financing,
25 and generally developing public development facilities or economic
26 development facilities within the state ~~or financing transition costs~~
27 ~~or the acquisition of transition property, or both, upon approval of~~
28 ~~a financing order by the Public Utilities Commission, as provided~~
29 ~~in Article 5.5 (commencing with Section 840) of Chapter 4 of Part~~
30 ~~1 of Division 1 of the Public Utilities Code. state.~~

31 ~~(q)~~

32 (p) “Public development facilities” means real and personal
33 property, structures, conveyances, equipment, thoroughfares,
34 buildings, and supporting components thereof, excluding any
35 housing, that are directly related to providing the following:

36 (1) “City streets” including any street, avenue, boulevard, road,
37 parkway, drive, or other way that is any of the following:

38 (A) An existing municipal roadway.

39 (B) Is shown upon a plat approved pursuant to law and includes
40 the land between the street lines, whether improved or unimproved,

1 and may comprise pavement, bridges, shoulders, gutters, curbs,
2 guardrails, sidewalks, parking areas, benches, fountains, plantings,
3 lighting systems, and other areas within the street lines, as well as
4 equipment and facilities used in the cleaning, grading, clearance,
5 maintenance, and upkeep thereof.

6 (2) “County highways” including any county highway as defined
7 in Section 25 of the Streets and Highways Code, that includes the
8 land between the highway lines, whether improved or unimproved,
9 and may comprise pavement, bridges, shoulders, gutters, curbs,
10 guardrails, sidewalks, parking areas, benches, fountains, plantings,
11 lighting systems, and other areas within the street lines, as well as
12 equipment and facilities used in the cleaning, grading, clearance,
13 maintenance, and upkeep thereof.

14 (3) “Drainage, water supply, and flood control” including, but
15 not limited to, ditches, canals, levees, pumps, dams, conduits,
16 pipes, storm sewers, and dikes necessary to keep or direct water
17 away from people, equipment, buildings, and other protected areas
18 as may be established by lawful authority, as well as the
19 acquisition, improvement, maintenance, and management of
20 floodplain areas and all equipment used in the maintenance and
21 operation of the foregoing.

22 (4) “Educational facilities” including libraries, child care
23 facilities, including, but not limited to, day care facilities, and
24 employment training facilities.

25 (5) “Environmental mitigation measures” including required
26 construction or modification of public infrastructure and purchase
27 and installation of pollution control and noise abatement
28 equipment.

29 (6) “Parks and recreational facilities” including local parks,
30 recreational property and equipment, parkways and property.

31 (7) “Port facilities” including docks, harbors, ports of entry,
32 piers, ships, small boat harbors and marinas, and any other
33 facilities, additions, or improvements in connection therewith.

34 (8) “Power and communications” including facilities for the
35 transmission or distribution of electrical energy, natural gas, and
36 telephone and telecommunications service.

37 (9) “Public transit” including air and rail transport of goods,
38 airports, guideways, vehicles, rights-of-way, passenger stations,
39 maintenance and storage yards, and related structures, including
40 public parking facilities, equipment used to provide or enhance

1 transportation by bus, rail, ferry, or other conveyance, either
2 publicly or privately owned, that provides to the public general or
3 special service on a regular and continuing basis.

4 (10) “Sewage collection and treatment” including pipes, pumps,
5 and conduits that collect wastewater from residential,
6 manufacturing, and commercial establishments, the equipment,
7 structures, and facilities used in treating wastewater to reduce or
8 eliminate impurities or contaminants, and the facilities used in
9 disposing of, or transporting, remaining sludge, as well as all
10 equipment used in the maintenance and operation of the foregoing.

11 (11) “Solid waste collection and disposal” including vehicles,
12 vehicle-compatible waste receptacles, transfer stations, recycling
13 centers, sanitary landfills, and waste conversion facilities necessary
14 to remove solid waste, except that which is hazardous as defined
15 by law, from its point of origin.

16 (12) “Water treatment and distribution” including facilities in
17 which water is purified and otherwise treated to meet residential,
18 manufacturing, or commercial purposes and the conduits, pipes,
19 and pumps that transport it to places of use.

20 (13) “Defense conversion” including, but not limited to, facilities
21 necessary for successfully converting military bases consistent
22 with an adopted base reuse plan.

23 (14) “Public safety facilities” including, but not limited to, police
24 stations, fire stations, court buildings, jails, juvenile halls, and
25 juvenile detention facilities.

26 (15) “State highways” including any state highway as described
27 in Chapter 2 (commencing with Section 230) of Division 1 of the
28 Streets and Highways Code, and the related components necessary
29 for safe operation of the highway.

30 (16) (A) Military infrastructure, including, but not limited to,
31 facilities on or near a military installation, that enhance the military
32 operations and mission of one or more military installations in this
33 state. To be eligible for funding, the project shall be endorsed by
34 the Office of Military and Aerospace Support established pursuant
35 to Section 13998.2.

36 (B) For purposes of this subdivision, “military installation”
37 means any facility under the jurisdiction of the *United States*
38 Department of Defense, as defined in paragraph (1) of subsection
39 (e) of Section 2687 of Title 10 of the United States Code.

1 ~~(r) “Rate reduction bonds” has the meaning set forth in Section~~
2 ~~840 of the Public Utilities Code.~~

3 ~~(s)~~

4 ~~(q) “Revenues” means all receipts, purchase payments, loan~~
5 ~~repayments, lease payments, and all other income or receipts~~
6 ~~derived by the bank or a sponsor from the sale, lease, or other~~
7 ~~financing arrangement undertaken by the bank, a sponsor or a~~
8 ~~participating party, including, but not limited to, all receipts from~~
9 ~~a bond purchase agreement, and any income or revenue derived~~
10 ~~from the investment of any money in any fund or account of the~~
11 ~~bank or a sponsor and any receipts derived from transition property.~~
12 ~~*sponsor*. Revenues shall not include moneys in the General Fund~~
13 ~~of the state.~~

14 ~~(t)~~

15 ~~(r) “Special purpose trust” means a trust, partnership, limited~~
16 ~~partnership, association, corporation, nonprofit corporation, or~~
17 ~~other entity authorized under the laws of the state to serve as an~~
18 ~~instrumentality of the state to accomplish public purposes and~~
19 ~~authorized by the bank to acquire, by purchase or otherwise, for~~
20 ~~retention or sale, the bonds of a sponsor or of the bank made or~~
21 ~~entered into pursuant to this division and to issue special purpose~~
22 ~~trust bonds or other obligations secured by these bonds or other~~
23 ~~sources of public or private revenues. Special purpose trust also~~
24 ~~means any entity authorized by the bank to acquire transition~~
25 ~~property or to issue rate reduction bonds, or both, subject to the~~
26 ~~approvals by the bank and powers of the bank as are provided by~~
27 ~~the bank in its resolution authorizing the entity to issue rate~~
28 ~~reduction bonds.~~

29 ~~(tt)~~

30 ~~(s) “Sponsor” means any subdivision of the state or local~~
31 ~~government including departments, agencies, commissions, cities,~~
32 ~~counties, nonprofit corporations formed on behalf of a sponsor,~~
33 ~~special districts, assessment districts, and joint powers authorities~~
34 ~~within the state or any combination of these subdivisions that~~
35 ~~makes an application to the bank for financial assistance in~~
36 ~~connection with a project in a manner prescribed by the bank. This~~
37 ~~definition shall not be construed to require that an applicant have~~
38 ~~an ownership interest in the project. In addition, an electrical~~
39 ~~corporation shall be deemed to be the sponsor as well as the~~
40 ~~participating party for any project relating to the financing of~~

1 ~~transition costs and the acquisition of transition property on the~~
2 ~~request of the electrical corporation and any person, company,~~
3 ~~corporation, partnership, firm, or other entity or group engaged in~~
4 ~~business or operation within the state that applies for financing of~~
5 ~~any economic development facility, shall be deemed to be the~~
6 ~~sponsor as well as the participating party for the project relating~~
7 ~~to the financing of that economic development facility.~~

8 ~~(v)~~

9 (t) “State” means the State of California.

10 ~~(w) “Transition costs” has the meaning set forth in Section 840~~
11 ~~of the Public Utilities Code.~~

12 ~~(x) “Transition property” has the meaning set forth in Section~~
13 ~~840 of the Public Utilities Code.~~

14 *SEC. 2. Section 63025.1 of the Government Code is amended*
15 *to read:*

16 63025.1. The bank board may do or delegate the following to
17 the executive director:

18 (a) Sue and be sued in its own name.

19 (b) As provided in Chapter 5 (commencing with Section 63070),
20 issue bonds and authorize special purpose trusts to issue bonds,
21 including, at the option of the board, bonds bearing interest that
22 is taxable for the purpose of federal income taxation, or borrow
23 money to pay all or any part of the cost of any project, or to
24 otherwise carry out the purposes of this division.

25 (c) Engage the services of private consultants to render
26 professional and technical assistance and advice in carrying out
27 the purposes of this division.

28 (d) Employ attorneys, financial consultants, and other advisers
29 as may, in the bank’s judgment, be necessary in connection with
30 the issuance and sale, or authorization of special purpose trusts for
31 the issuance and sale, of any bonds, notwithstanding Sections
32 11042 and 11043.

33 (e) Contract for engineering, architectural, accounting, or other
34 services of appropriate state agencies as may, in its judgment, be
35 necessary for the successful development of a project.

36 (f) Pay the reasonable costs of consulting engineers, architects,
37 accountants, and construction, land use, recreation, and
38 environmental experts employed by any sponsor or participating
39 party if, in the bank’s judgment, those services are necessary for
40 the successful development of a project.

1 (g) Acquire, take title to, and sell by installment sale or
2 otherwise, lands, structures, real or personal property, rights,
3 rights-of-way, franchises, easements, and other interests in lands
4 that are located within the state, ~~or transition property~~ as the bank
5 may deem necessary or convenient for the financing of the project,
6 upon terms and conditions that it considers to be reasonable.

7 (h) Receive and accept from any source including, but not
8 limited to, the federal government, the state, or any agency thereof,
9 loans, contributions, or grants, in money, property, labor, or other
10 things of value, for, or in aid of, a project, or any portion thereof.

11 (i) Make loans to any sponsor or participating party, either
12 directly or by making a loan to a lending institution, in connection
13 with the financing of a project in accordance with an agreement
14 between the bank and the sponsor or a participating party, either
15 as a sole lender or in participation with other lenders. However,
16 no loan shall exceed the total cost of the project as determined by
17 the sponsor or the participating party and approved by the bank.

18 (j) Make loans to any sponsor or participating party, either
19 directly or by making a loan to a lending institution, in accordance
20 with an agreement between the bank and the sponsor or
21 participating party to refinance indebtedness incurred by the
22 sponsor or participating party in connection with projects
23 undertaken and completed prior to any agreement with the bank
24 or expectation that the bank would provide financing, either as a
25 sole lender or in participation with other lenders.

26 (k) Mortgage all or any portion of the bank's interest in a project
27 and the property on which any project is located, whether owned
28 or thereafter acquired, including the granting of a security interest
29 in any property, tangible or intangible.

30 (l) Assign or pledge all or any portion of the bank's interests in
31 ~~transition property and the revenues therefrom,~~ or assets, things
32 of value, mortgages, deeds of trust, bonds, bond purchase
33 agreements, loan agreements, indentures of mortgage or trust, or
34 similar instruments, notes, and security interests in property,
35 tangible or intangible and the revenues therefrom, of a sponsor or
36 a participating party to which the bank has made loans, and the
37 revenues therefrom, including payment or income from any interest
38 owned or held by the bank, for the benefit of the holders of bonds.

39 (m) Make, receive, or serve as a conduit for the making of, or
40 otherwise provide for, grants, contributions, guarantees, insurance,

1 credit enhancements or liquidity facilities, or other financial
2 enhancements to a sponsor or a participating party as financial
3 assistance for a project.

4 (n) Lease the project being financed to a sponsor or a
5 participating party, upon terms and conditions that the bank deems
6 proper but shall not be leased at a loss; charge and collect rents
7 therefor; terminate any lease upon the failure of the lessee to
8 comply with any of the obligations thereof; include in any lease,
9 if desired, provisions that the lessee shall have options to renew
10 the lease for a period or periods, and at rents determined by the
11 bank; purchase any or all of the project; or, upon payment of all
12 the indebtedness incurred by the bank for the financing of the
13 project, the bank may convey any or all of the project to the lessee
14 or lessees.

15 (o) Charge and equitably apportion among sponsors and
16 participating parties the bank's administrative costs and expenses
17 incurred in the exercise of the powers and duties conferred by this
18 division.

19 (p) Issue, obtain, or aid in obtaining, from any department or
20 agency of the United States, from other agencies of the state, or
21 from any private company, any insurance or guarantee to, or for,
22 the payment or repayment of interest or principal, or both, or any
23 part thereof, on any loan, lease, or obligation or any instrument
24 evidencing or securing the same, made or entered into pursuant to
25 this division.

26 (q) Notwithstanding any other provision of this division, enter
27 into any agreement, contract, or any other instrument with respect
28 to any insurance or guarantee; accept payment in the manner and
29 form as provided therein in the event of default by a sponsor or a
30 participating party; and issue or assign any insurance or guarantee
31 as security for the bank's bonds.

32 (r) Enter into any agreement or contract, execute any instrument,
33 and perform any act or thing necessary or convenient to, directly
34 or indirectly, secure the bank's bonds, the bonds issued by a special
35 purpose trust, or a sponsor's obligations to the bank or to a special
36 purpose trust, including, but not limited to, bonds of a sponsor
37 purchased by the bank or a special purpose trust for retention or
38 sale, with funds or moneys that are legally available and that are
39 due or payable to the sponsor by reason of any grant, allocation,
40 apportionment or appropriation of the state or agencies thereof, to

1 the extent that the Controller shall be the custodian at any time of
2 these funds or moneys, or with funds or moneys that are or will
3 be legally available to the sponsor, the bank, or the state or any
4 agencies thereof by reason of any grant, allocation, apportionment,
5 or appropriation of the federal government or agencies thereof;
6 and in the event of written notice that the sponsor has not paid or
7 is in default on its obligations to the bank or a special purpose
8 trust, direct the Controller to withhold payment of those funds or
9 moneys from the sponsor over which it is or will be custodian and
10 to pay the same to the bank or special purpose trust or their
11 assignee, or direct the state or any agencies thereof to which any
12 grant, allocation, apportionment, or appropriation of the federal
13 government or agencies thereof is or will be legally available to
14 pay the same upon receipt by the bank or special purpose trust or
15 their assignee, until the default has been cured and the amounts
16 then due and unpaid have been paid to the bank or special purpose
17 trust or their assignee, or until arrangements satisfactory to the
18 bank or special purpose trust have been made to cure the default.

19 (s) Enter into any agreement or contract, execute any instrument,
20 and perform any act or thing necessary, convenient, or appropriate
21 to carry out any power expressly given to the bank by this division,
22 including, but not limited to, agreements for the sale of all or any
23 part, including principal, interest, redemption rights, or any other
24 rights or obligations, of bonds of the bank or of a special purpose
25 trust, liquidity agreements, contracts commonly known as interest
26 rate swap agreements, forward payment conversion agreements,
27 futures or contracts providing for payments based on levels of, or
28 changes in, interest rates or currency exchange rates, or contracts
29 to exchange cash-flows or a series of payments, or contracts,
30 including options, puts or calls to hedge payments, rate, spread,
31 currency exchange, or similar exposure, or any other financial
32 instrument commonly known as a structured financial product.

33 (t) Purchase, with the proceeds of the bank's bonds, transition
34 property or bonds issued by, or for the benefit of, any sponsor in
35 connection with a project, pursuant to a bond purchase agreement
36 or otherwise. Bonds or transition property purchased pursuant to
37 this division may be held by the bank, pledged or assigned by the
38 bank, or sold to public or private purchasers at public or negotiated
39 sale, in whole or in part, separately or together with other bonds

1 issued by the bank, and notwithstanding any other provision of
2 law, may be bought by the bank at private sale.

3 (u) Enter into purchase and sale agreements with all entities,
4 public and private, including state and local government pension
5 funds, with respect to the sale or purchase of ~~bonds or transition~~
6 ~~property~~ *bonds*.

7 (v) Invest any moneys held in reserve or sinking funds, or any
8 moneys not required for immediate use or disbursement, in
9 obligations that are authorized by law for the investment of trust
10 funds in the custody of the Treasurer.

11 (w) Authorize a special purpose trust or trusts to purchase or
12 retain, with the proceeds of the bonds of a special purpose trust,
13 transition property or bonds issued by, or for the benefit of, any
14 sponsor in connection with a project or issued by the bank or a
15 special purpose trust, pursuant to a bond purchase agreement or
16 otherwise. Bonds or transition property purchased pursuant to this
17 title may be held by a special purpose entity, pledged or assigned
18 by a special purpose entity, or sold to public or private purchasers
19 at public or negotiated sale, in whole or in part, with or without
20 structuring, subordination, or credit enhancement, separately or
21 together with other bonds issued by a special purpose trust, and
22 notwithstanding any other provision of law, may be bought by the
23 bank or by a special purpose trust at private sale.

24 (x) Approve the issuance of any bonds, notes, or other evidences
25 of indebtedness by the Rural Economic Development Infrastructure
26 Panel, established pursuant to Section 15373.7.

27 ~~(y) Approve the issuance of rate reduction bonds by an entity~~
28 ~~other than the bank or a special purpose trust to acquire transition~~
29 ~~property upon approval of the transaction in a financing order by~~
30 ~~the Public Utilities Commission, as provided in Article 5.5~~
31 ~~(commencing with Section 840) of Chapter 4 of Part 1 of Division~~
32 ~~1 of the Public Utilities Code.~~

33 (z)

34 (y) Apply for and accept subventions, grants, loans, advances,
35 and contributions from any source of money, property, labor, or
36 other things of value. The sources may include bond proceeds,
37 dedicated taxes, state appropriations, federal appropriations, federal
38 grant and loan funds, public and private sector retirement system
39 funds, and proceeds of loans from the Pooled Money Investment
40 Account.

1 ~~(aa)~~

2 (z) Do all things necessary and convenient to carry out its
3 purposes and exercise its powers, provided, however, that nothing
4 herein shall be construed to authorize the bank to engage directly
5 in the business of a manufacturing, industrial, real estate
6 development, or nongovernmental service enterprise. Further, the
7 bank shall not be organized to accept deposits of money for time
8 or demand deposits or to constitute a bank or trust company.

9 *SEC. 3. Section 63041.5 of the Government Code is amended*
10 *to read:*

11 63041.5. (a) It is the intent of the Legislature to provide a
12 one-time appropriation for financial assistance to local government
13 to meet capital outlay and infrastructure needs.

14 (b) From the funds appropriated in Item 2920-111-0001 of the
15 Budget Act of 1999, the sum of four hundred twenty-five million
16 dollars (\$425,000,000) shall be available for financial assistance,
17 including, but not limited to, leveraged revolving fund loans, to
18 local government sponsors for public development facilities, as
19 specified in subdivision ~~(q)~~ (p) of Section 63010 of the Government
20 Code.

21 (c) From the funds appropriated in Item 2920-111-0001 of the
22 Budget Act of 1999 and in Item 2920-111-0001 of the Budget Act
23 of 1998 ~~(Chapter 324 of the Statutes of (Ch. 324, Stats. 1998), the~~
24 California Infrastructure and Economic Development Bank shall
25 make no single loan in excess of 10 percent of the combined
26 amount of these appropriations to the bank unless approved by
27 unanimous consent of the membership of the Board of Directors
28 of the California Infrastructure and Economic Development Bank
29 and the Director of Finance provides a 30-day written notice to
30 the Chairperson and Vice-Chairperson of the Joint Legislative
31 Budget Committee.

32 *SEC. 4. Article 4 (commencing with Section 63042) of Chapter*
33 *2 of Division 1 of Title 6.7 of the Government Code is repealed.*

34 *SEC. 5. Section 63043 of the Government Code is amended to*
35 *read:*

36 63043. Notwithstanding any other provision of this division,
37 Article 3 (commencing with Section 63040) ~~and Article 4~~
38 ~~(commencing with Section 63042),~~ shall not apply to any conduit
39 financing for economic development facilities by the bank directly
40 for the benefit of a participating party.

1 SEC. 6. Section 63048.3 of the Government Code is amended
2 to read:

3 63048.3. Notwithstanding any other provision of this division,
4 Article 3 (commencing with Section ~~63040~~), ~~Article 4~~
5 (~~commencing with Article 63042~~), 63040) and Article 5
6 (commencing with Section 63043) do not apply to any financing
7 provided by the bank to, or at the request of, the board in
8 connection with the revolving fund.

9 SEC. 7. Section 63048.56 of the Government Code is amended
10 to read:

11 63048.56. Notwithstanding any other law, Article 3
12 (commencing with Section ~~63040~~), ~~Article 4~~ (~~commencing with~~
13 ~~Section 63042~~), 63040) and Article 5 (commencing with Section
14 63043) shall not apply to any financing provided by the bank to,
15 or at the request of, the department in connection with the revolving
16 fund.

17 SEC. 8. Section 63048.7 of the Government Code is amended
18 to read:

19 63048.7. Notwithstanding any other provision of this division,
20 Article 3 (commencing with Section ~~63040~~), ~~Article 4~~
21 (~~commencing with Section 63042~~), 63040) and Article 5
22 (commencing with Section 63043) do not apply to any bonds issued
23 by the special purpose trust established by this article. All matters
24 authorized in this article are in addition to powers granted to the
25 bank in this division.

26 SEC. 9. Section 63049.2 of the Government Code is amended
27 to read:

28 63049.2. Notwithstanding any other provision of this division,
29 Article 3 (commencing with Section ~~63040~~), ~~Article 4~~
30 (~~commencing with Section 63042~~), 63040) and Article 5
31 (commencing with Section 63043) do not apply to any bonds issued
32 by the special purpose trust established by this article. All matters
33 authorized in this article are in addition to powers granted to the
34 bank in this division.

35 SEC. 10. Section 63049.62 of the Government Code is amended
36 to read:

37 63049.62. Notwithstanding any other provision of this division,
38 a financing of the costs of claims of insolvent insurers upon the
39 request of the association pursuant to Section 1063.73 of the
40 Insurance Code shall be deemed to be in the public interest and

1 eligible for financing by the bank, and Article 3 (commencing with
2 Section 63040), ~~Article 4 (commencing with Section 63042),~~
3 Article 5 (commencing with Section 63043), Article 6
4 (commencing with Section 63048), and Article 7 (commencing
5 with Section 63049) shall not apply to the financing provided by
6 the bank to, or at the request of, the association or the department
7 in connection with the fund. Notwithstanding any other provision
8 of this division, the bank shall have no authority over any matter
9 that is subject to the approval of the Insurance Commissioner under
10 Article 14.2 (commencing with Section 1063) of Chapter 1 of Part
11 2 of Division 1 of the Insurance Code.

12 *SEC. 11. Section 63049.64 of the Government Code is amended*
13 *to read:*

14 63049.64. (a) The bank may issue bonds pursuant to Chapter
15 5 (commencing with Section 63070) and may loan the proceeds
16 thereof to the association, and deposit the proceeds into a separate
17 account in the fund, or use the proceeds to refund bonds previously
18 issued under this article. Bond proceeds may also be used to fund
19 necessary reserves, capitalized interest, credit enhancement costs,
20 or costs of issuance.

21 (b) Bonds issued under this article shall not be deemed to
22 constitute a debt or liability of the state or of any political
23 subdivision thereof, other than the bank, or a pledge of the faith
24 and credit of the state or of any political subdivision, but shall be
25 payable solely from the fund and other revenues and assets securing
26 the bonds. All bonds issued under this article shall contain on the
27 face of the bonds a statement to that effect.

28 (c) For purposes of this article, the term “project,” as defined
29 in subdivision ~~(p)~~ (o) of Section 63010, shall include financing of
30 the costs of claims of insolvent workers’ compensation insurers,
31 in an amount (together with associated costs of financing) that
32 may be determined by the association in making a request for
33 financing to the bank.

34 *SEC. 12. Section 63049.67 of the Government Code is amended*
35 *to read:*

36 63049.67. (a) Notwithstanding any other provision of this
37 division, a financing of emergency apportionments upon the request
38 of a school district pursuant to Article 2.7 (commencing with
39 Section 41329.50) of Chapter 3 of Part 24 of Division 3 of Title
40 2 of the Education Code, is deemed to be in the public interest and

1 eligible for financing by the bank. Article 3 (commencing with
2 Section ~~63040~~), Article 4 (commencing with Section ~~63042~~),
3 ~~63040~~) and Article 5 (commencing with Section 63043) do not
4 apply to the financing provided by the bank in connection with an
5 emergency apportionment.

6 (b) The bank may issue bonds pursuant to Chapter 5
7 (commencing with Section 63070) and provide the proceeds to a
8 school district pursuant to a lease agreement. The proceeds may
9 be used as an emergency apportionment, to reimburse the interim
10 emergency apportionment from the General Fund authorized
11 pursuant to subdivision (b) of Section 41329.52 of the Education
12 Code, or to refund bonds previously issued under this section.
13 Bond proceeds may also be used to fund necessary reserves,
14 capitalized interest, credit enhancement costs, and costs of issuance.

15 (c) Bonds issued under this article are not deemed to constitute
16 a debt or liability of the state or of any political subdivision of the
17 state, other than a limited obligation of the bank, or a pledge of
18 the faith and credit of the state or of any political subdivision. All
19 bonds issued under this article shall contain on the face of the
20 bonds a statement to the same effect.

21 (d) Any fund or account established in connection with the
22 bonds shall be established outside of the centralized treasury
23 system. Notwithstanding any other law, the bank shall select the
24 financing team and the trustee for the bonds, and the trustee shall
25 be a corporation or banking association authorized to exercise
26 corporate trust powers.

27 (e) Pursuant to Section 41329.55 of the Education Code, a school
28 district other than the Compton Community College District shall
29 instruct the Controller to repay the lease from moneys in the State
30 School Fund and the Education Protection Account designated for
31 apportionment to the school district. Pursuant to Section 41329.55
32 of the Education Code, if the school district is the Compton
33 Community College District, the Controller shall be instructed to
34 repay the lease from moneys in Section B of the State School Fund.
35 Any amounts necessary to make this repayment shall be drawn
36 from the total statewide funding available for community college
37 apportionment consisting of funds in Section B of the State School
38 Fund. Thereafter the Controller shall transfer to Section B of the
39 State School Fund, either in a single or multiple transfers, an
40 amount equal to the total repayment, which amount shall be

1 transferred from the amount designated for apportionment to the
2 Compton Community College District from the State School Fund.
3 If these transfers from the district prove inadequate to repay any
4 repayments for any reason, the Compton Community College
5 District is required to use any revenue sources available to it for
6 transfer and repayment purposes.

7 (f) Notwithstanding any other law, as long as any bonds issued
8 pursuant to this section are outstanding, the following requirements
9 apply:

10 (1) The school district for which the bonds were issued is not
11 eligible to be a debtor in a case under Chapter 9 of the United
12 States Bankruptcy Code, as it may be amended from time to time,
13 and no governmental officer or organization is or may be
14 empowered to authorize the school district to be a debtor under
15 that chapter.

16 (2) It is the intent of the Legislature that the Legislature should
17 not in the future abolish the Compton Community College District
18 or take any action that would prevent the Compton Community
19 College *District* from entering into or performing binding
20 agreements or invalidate any prior binding agreements of the
21 Compton Community College District, where invalidation may
22 have a material adverse effect on the bonds issued pursuant to this
23 section.

24 (3) The Compton Community College District shall not be
25 reorganized or merged with another community college district
26 unless all of the following apply:

27 (A) The successor district becomes by operation of law the
28 owner of all property previously owned by the Compton
29 Community College District.

30 (B) Any agreement entered into by the Compton Community
31 College District in connection with bonds issued pursuant to this
32 section are assumed by the successor district.

33 (C) The apportionment authorized by subdivision (e) remains
34 in effect.

35 (D) Receipt by the bank of an opinion of bond counsel that the
36 bonds issued for the Compton Community College District will
37 remain tax exempt following the reorganization or merger.

38 (g) Nothing in this section limits the authority of the Legislature
39 to abolish the Compton Community College District when bonds
40 issued for that district are no longer outstanding. Further, the

1 Legislature may provide for the redemption or defeasance of the
2 bonds at any time so that no bonds are outstanding. If the
3 Legislature provides for the redemption or defeasance of the bonds
4 issued for the Compton Community College District in order to
5 abolish that district, it is the intent of the Legislature that the funds
6 required for the redemption or defeasance should be appropriated
7 from Section B of the State School Fund.

8 (h) The bank may enter into contracts or agreements with banks,
9 insurers, or other financial institutions or parties that it determines
10 are necessary or desirable to improve the security and marketability
11 of, or to manage interest rates or other risks associated with, the
12 bonds issued pursuant to this section. The bank may pledge
13 apportionments made by the Controller directly to the bond trustee
14 pursuant to Section 41329.55 of the Education Code as security
15 for repayment of any obligation owed to a bank, insurer, or other
16 financial institution pursuant to this subdivision.

17 *SEC. 13. Section 63071 of the Government Code is amended*
18 *to read:*

19 63071. (a) Notwithstanding any other provision of law, but
20 consistent with Sections 1 and 18 of Article XVI of the California
21 Constitution, a sponsor may issue bonds for purchase by the bank
22 pursuant to a bond purchase agreement. The bank may issue bonds
23 or authorize a special purpose trust to issue bonds. These bonds
24 may be issued pursuant to the charter of any city or any city and
25 county that authorized the issuance of these bonds as a sponsor
26 and may also be issued by any sponsor pursuant to the Revenue
27 Bond Law of 1941 (Chapter 6 (commencing with Section 54300)
28 of Division 2 of Title 5) to pay the costs and expenses pursuant to
29 this title, subject to the following conditions:

30 (1) With the prior approval of the bank, the sponsor may sell
31 these bonds in any manner as it may determine, either by private
32 sale or by means of competitive bid.

33 (2) Notwithstanding Section 54418, the bonds may be sold at
34 a discount at any rate as the bank and sponsor shall determine.

35 (3) Notwithstanding Section 54402, the bonds shall bear interest
36 at any rate and be payable at any time as the sponsor shall
37 determine with the consent of the bank.

38 (b) The total amount of bonds issued to finance public
39 development facilities that may be outstanding at any one time
40 under this chapter shall not exceed five billion dollars

1 (~~\$5,000,000,000~~). ~~The total amount of rate reduction bonds that~~
2 ~~may be outstanding at any one time under this chapter shall not~~
3 ~~exceed ten billion dollars (\$10,000,000,000).~~

4 (c) Bonds for which moneys or securities have been deposited
5 in trust, in amounts necessary to pay or redeem the principal,
6 interest, and any redemption premium thereon, shall be deemed
7 not to be outstanding for purposes of this section.

8 *SEC. 14. Section 330 of the Public Utilities Code is repealed.*

9 ~~330. In order to provide guidance in carrying out this chapter,~~
10 ~~the Legislature finds and declares all of the following:~~

11 (a) ~~It is the intent of the Legislature that a cumulative rate~~
12 ~~reduction of at least 20 percent be achieved not later than April 1,~~
13 ~~2002, for residential and small commercial customers, from the~~
14 ~~rates in effect on June 10, 1996. In determining that the April 1,~~
15 ~~2002, rate reduction has been met, the commission shall exclude~~
16 ~~the costs of the competitively procured electricity and the costs~~
17 ~~associated with the rate reduction bonds, as defined in Section~~
18 ~~840.~~

19 (b) ~~The people, businesses, and institutions of California spend~~
20 ~~nearly twenty-three billion dollars (\$23,000,000,000) annually on~~
21 ~~electricity, so that reductions in the price of electricity would~~
22 ~~significantly benefit the economy of the state and its residents.~~

23 (c) ~~The Public Utilities Commission has opened rulemaking~~
24 ~~and investigation proceedings with regard to restructuring~~
25 ~~California's electric power industry and reforming utility~~
26 ~~regulation.~~

27 (d) ~~The commission has found, after an extensive public review~~
28 ~~process, that the interests of ratepayers and the state as a whole~~
29 ~~will be best served by moving from the regulatory framework~~
30 ~~existing on January 1, 1997, in which retail electricity service is~~
31 ~~provided principally by electrical corporations subject to an~~
32 ~~obligation to provide ultimate consumers in exclusive service~~
33 ~~territories with reliable electric service at regulated rates, to a~~
34 ~~framework under which competition would be allowed in the~~
35 ~~supply of electric power and customers would be allowed to have~~
36 ~~the right to choose their supplier of electric power.~~

37 (e) ~~Competition in the electric generation market will encourage~~
38 ~~innovation, efficiency, and better service from all market~~
39 ~~participants, and will permit the reduction of costly regulatory~~
40 ~~oversight.~~

1 (f) ~~The delivery of electricity over transmission and distribution~~
2 ~~systems is currently regulated, and will continue to be regulated~~
3 ~~to ensure system safety, reliability, environmental protection, and~~
4 ~~fair access for all market participants.~~

5 (g) ~~Reliable electric service is of utmost importance to the safety,~~
6 ~~health, and welfare of the state’s citizenry and economy. It is the~~
7 ~~intent of the Legislature that electric industry restructuring should~~
8 ~~enhance the reliability of the interconnected regional transmission~~
9 ~~systems, and provide strong coordination and enforceable protocols~~
10 ~~for all users of the power grid.~~

11 (h) ~~It is important that sufficient supplies of electric generation~~
12 ~~will be available to maintain the reliable service to the citizens and~~
13 ~~businesses of the state.~~

14 (i) ~~Reliable electric service depends on conscientious inspection~~
15 ~~and maintenance of transmission and distribution systems. To~~
16 ~~continue and enhance the reliability of the delivery of electricity,~~
17 ~~the Independent System Operator and the commission, respectively,~~
18 ~~should set inspection, maintenance, repair, and replacement~~
19 ~~standards.~~

20 (j) ~~It is the intent of the Legislature that California enter into a~~
21 ~~compact with western region states. That compact should require~~
22 ~~the publicly and investor-owned utilities located in those states,~~
23 ~~that sell energy to California retail customers, to adhere to~~
24 ~~enforceable standards and protocols to protect the reliability of the~~
25 ~~interconnected regional transmission and distribution systems.~~

26 (k) ~~In order to achieve meaningful wholesale and retail~~
27 ~~competition in the electric generation market, it is essential to do~~
28 ~~all of the following:~~

29 (1) ~~Separate monopoly utility transmission functions from~~
30 ~~competitive generation functions, through development of~~
31 ~~independent, third-party control of transmission access and pricing.~~

32 (2) ~~Permit all customers to choose from among competing~~
33 ~~suppliers of electric power.~~

34 (3) ~~Provide customers and suppliers with open,~~
35 ~~nondiscriminatory, and comparable access to transmission and~~
36 ~~distribution services.~~

37 (l) ~~The commission has properly concluded that:~~

38 (1) ~~This competition will best be introduced by the creation of~~
39 ~~an Independent System Operator and an independent Power~~
40 ~~Exchange.~~

1 ~~(2) Generation of electricity should be open to competition.~~

2 ~~(3) There is a need to ensure that no participant in these new~~
3 ~~market institutions has the ability to exercise significant market~~
4 ~~power so that operation of the new market institutions would be~~
5 ~~distorted.~~

6 ~~(4) These new market institutions should commence~~
7 ~~simultaneously with the phase in of customer choice, and the public~~
8 ~~will be best served if these institutions and the nonbypassable~~
9 ~~transition cost recovery mechanism referred to in subdivisions (s)~~
10 ~~to (w), inclusive, are in place simultaneously and no later than~~
11 ~~January 1, 1998.~~

12 ~~(m) It is the intention of the Legislature that California's publicly~~
13 ~~owned electric utilities and investor-owned electric utilities should~~
14 ~~commit control of their transmission facilities to the Independent~~
15 ~~System Operator. These utilities should jointly advocate to the~~
16 ~~Federal Energy Regulatory Commission a pricing methodology~~
17 ~~for the Independent System Operator that results in an equitable~~
18 ~~return on capital investment in transmission facilities for all~~
19 ~~Independent System Operator participants.~~

20 ~~(n) Opportunities to acquire electric power in the competitive~~
21 ~~market must be available to California consumers as soon as~~
22 ~~practicable, but no later than January 1, 1998, so that all customers~~
23 ~~can share in the benefits of competition.~~

24 ~~(o) Under the existing regulatory framework, California's~~
25 ~~electrical corporations were granted franchise rights to provide~~
26 ~~electricity to consumers in their service territories.~~

27 ~~(p) Consistent with federal and state policies, California~~
28 ~~electrical corporations invested in power plants and entered into~~
29 ~~contractual obligations in order to provide reliable electrical service~~
30 ~~on a nondiscriminatory basis to all consumers within their service~~
31 ~~territories who requested service.~~

32 ~~(q) The cost of these investments and contractual obligations~~
33 ~~are currently being recovered in electricity rates charged by~~
34 ~~electrical corporations to their consumers.~~

35 ~~(r) Transmission and distribution of electric power remain~~
36 ~~essential services imbued with the public interest that are provided~~
37 ~~over facilities owned and maintained by the state's electrical~~
38 ~~corporations.~~

39 ~~(s) It is proper to allow electrical corporations an opportunity~~
40 ~~to continue to recover, over a reasonable transition period, those~~

1 costs and categories of costs for generation-related assets and
2 obligations, including costs associated with any subsequent
3 renegotiation or buyout of existing generation-related contracts,
4 that the commission, prior to December 20, 1995, had authorized
5 for collection in rates and that may not be recoverable in market
6 prices in a competitive generation market, and appropriate additions
7 incurred after December 20, 1995, for capital additions to
8 generating facilities existing as of December 20, 1995, that the
9 commission determines are reasonable and should be recovered,
10 provided that the costs are necessary to maintain those facilities
11 through December 31, 2001. In determining the costs to be
12 recovered, it is appropriate to net the negative value of above
13 market assets against the positive value of below market assets.

14 (t) The transition to a competitive generation market should be
15 orderly, protect electric system reliability, provide the investors
16 in these electrical corporations with a fair opportunity to fully
17 recover the costs associated with commission approved
18 generation-related assets and obligations, and be completed as
19 expeditiously as possible.

20 (u) The transition to expanded customer choice, competitive
21 markets, and performance based ratemaking as described in
22 Decision 95-12-063, as modified by Decision 96-01-009, of the
23 Public Utilities Commission, can produce hardships for employees
24 who have dedicated their working lives to utility employment. It
25 is preferable that any necessary reductions in the utility workforce
26 directly caused by electrical restructuring, be accomplished through
27 offers of voluntary severance, retraining, early retirement,
28 outplacement, and related benefits. Whether workforce reductions
29 are voluntary or involuntary, reasonable costs associated with these
30 sorts of benefits should be included in the competition transition
31 charge.

32 (v) Charges associated with the transition should be collected
33 over a specific period of time on a nonbypassable basis and in a
34 manner that does not result in an increase in rates to customers of
35 electrical corporations. In order to insulate the policy of
36 nonbypassability against incursions, if exemptions from the
37 competition transition charge are granted, a firewall shall be created
38 that segregates recovery of the cost of exemptions as follows:

39 (1) The cost of the competition transition charge exemptions
40 granted to members of the combined class of residential and small

1 ~~commercial customers shall be recovered only from those~~
2 ~~customers.~~

3 ~~(2) The cost of the competition transition charge exemptions~~
4 ~~granted to members of the combined class of customers other than~~
5 ~~residential and small commercial customers shall be recovered~~
6 ~~only from those customers. The commission shall retain existing~~
7 ~~cost allocation authority provided that the firewall and rate freeze~~
8 ~~principles are not violated.~~

9 ~~(w) It is the intent of the Legislature to require and enable~~
10 ~~electrical corporations to monetize a portion of the competition~~
11 ~~transition charge for residential and small commercial consumers~~
12 ~~so that these customers will receive rate reductions of no less than~~
13 ~~10 percent for 1998 continuing through 2002. Electrical~~
14 ~~corporations shall, by June 1, 1997, or earlier, secure the means~~
15 ~~to finance the competition transition charge by applying~~
16 ~~concurrently for financing orders from the Public Utilities~~
17 ~~Commission and for rate reduction bonds from the California~~
18 ~~Infrastructure and Economic Development Bank.~~

19 ~~(x) California's public utility electrical corporations provide~~
20 ~~substantial benefits to all Californians, including employment and~~
21 ~~support of the state's economy. Restructuring the electric services~~
22 ~~industry pursuant to the act that added this chapter will continue~~
23 ~~these benefits, and will also offer meaningful and immediate rate~~
24 ~~reductions for residential and small commercial customers, and~~
25 ~~facilitate competition in the supply of electric power.~~

26 *SEC. 15. Section 331 of the Public Utilities Code is amended*
27 *to read:*

28 331. The definitions set forth in this section shall govern the
29 construction of this chapter.

30 (a) "Aggregator" means any marketer, broker, public agency,
31 city, county, or special district, that combines the loads of multiple
32 end-use customers in facilitating the sale and purchase of electric
33 energy, transmission, and other services on behalf of these
34 customers.

35 (b) "Broker" means an entity that arranges the sale and purchase
36 of electric energy, transmission, and other services between buyers
37 and sellers, but does not take title to any of the power sold.

38 (c) "Direct transaction" means a contract between any one or
39 more electric generators, marketers, or brokers of electric power

1 and one or more retail customers providing for the purchase and
2 sale of electric power or any ancillary services.

3 ~~(d) “Fire wall” means the line of demarcation separating~~
4 ~~residential and small commercial customers from all other~~
5 ~~customers as described in subdivision (e) of Section 367.~~

6 (e)

7 (d) “Marketer” means any entity that buys electric energy,
8 transmission, and other services from traditional utilities and other
9 suppliers, and then resells those services at wholesale or to an
10 end-use customer.

11 (f)

12 (e) “Microgeneration facility” means a cogeneration facility
13 of less than one megawatt.

14 ~~(g) “Restructuring trusts” means the two tax-exempt public~~
15 ~~benefit trusts established by Decision 96-08-038 of the Public~~
16 ~~Utilities Commission to provide for design and development of~~
17 ~~the hardware and software systems for the Power Exchange and~~
18 ~~the Independent System Operator, respectively, and that may~~
19 ~~undertake other activities, as needed, as ordered by the commission.~~

20 (h)

21 (f) “Small commercial customer” means a customer that has a
22 maximum peak demand of less than 20 kilowatts.

23 *SEC. 16. Section 332.1 of the Public Utilities Code is amended*
24 *to read:*

25 332.1. (a) (1) It is the intent of the Legislature to enact Item
26 1 (revised) on the commission’s August 21, 2000, agenda, entitled
27 “Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021
28 to Regarding Interim Rate Caps for San Diego Gas and Electric
29 Company,” as modified below.

30 (2) It is also the intent of the Legislature that to the extent that
31 the Federal Energy Regulatory Commission orders refunds to
32 electrical corporations pursuant to their findings, the commission
33 shall ensure that any refunds are returned to customers.

34 (b) The commission shall establish a ceiling of six and
35 five-tenths cents (\$0.065) per kilowatthour on the energy
36 component of electric bills for electricity supplied to residential,
37 small commercial, and street lighting customers by the San Diego
38 Gas and Electric Company, through December 31, 2002, retroactive
39 to June 1, 2000. If the commission finds it in the public interest,

1 this ceiling may be extended through December 2003 and may be
2 adjusted as provided in subdivision (d).

3 (c) The commission shall establish an accounting procedure to
4 track and recover reasonable and prudent costs of providing electric
5 energy to retail customers unrecovered through retail bills due to
6 the application of the ceiling provided for in subdivision (b). The
7 accounting procedure shall utilize revenues associated with sales
8 of energy from utility-owned or managed generation assets to
9 offset an undercollection, if undercollection occurs. The accounting
10 procedure shall be reviewed periodically by the commission, but
11 not less frequently than semiannually. The commission may utilize
12 an existing proceeding to perform the review. The accounting
13 procedure and review shall provide a reasonable opportunity for
14 San Diego Gas and Electric Company to recover its reasonable
15 and prudent costs of service over a reasonable period of time.

16 (d) If the commission determines that it is in the public interest
17 to do so, the commission, after the date of the completion of the
18 proceeding described in subdivision (g), may adjust the ceiling
19 from the level specified in subdivision (b), and may adjust the
20 frozen rate from the levels specified in subdivision (f), consistent
21 with the Legislature's intent to provide substantial protections for
22 customers of the San Diego Gas and Electric Company and their
23 interest in just and reasonable rates and adequate service.

24 (e) For purposes of this section, "small commercial customer"
25 includes, but is not limited to, all San Diego Gas and Electric
26 Company accounts on Rate Schedule A of the San Diego Gas and
27 Electric Company, all accounts of customers who are "general
28 acute care hospitals," as defined in Section 1250 of the Health and
29 Safety Code, all San Diego Gas and Electric Company accounts
30 of customers who are public or private schools for pupils in
31 kindergarten or any of grades 1 to 12, inclusive, and all accounts
32 on Rate Schedule AL-TOU under 100 kilowatts.

33 (f) The commission shall establish an initial frozen rate of six
34 and five-tenths cents (\$0.065) per kilowatthour on the energy
35 component of electric bills for electricity supplied to all customers
36 by the San Diego Gas and Electric Company not subject to
37 subdivision (b), for the time period ending with the end of the rate
38 freeze for the Pacific Gas and Electric Company and the Southern
39 California Edison Company ~~pursuant to Section 368~~, retroactive
40 to February 7, 2001. The commission shall consider the comparable

1 energy components of rates for comparable customer classes served
2 by the Pacific Gas and Electric Company and the Southern
3 California Edison Company and, if it determines it to be in the
4 public interest, the commission may adjust this frozen rate, and
5 may do so, retroactive to the date that rate increases took effect
6 for customers of Pacific Gas and Electric Company and Southern
7 California Edison Company pursuant to the commission's March
8 27, 2001, decision. The commission shall determine the Fixed
9 Department of Water Resources Set-Aside pursuant to Section
10 360.5 for customers subject to this section, reflecting a retail rate
11 consistent with the rate for the energy component of electric bills
12 as determined in this subdivision, in place of the retail rate in effect
13 on January 5, 2001. This section shall be construed to modify the
14 payment provisions, but may not be construed to modify the
15 electric procurement obligations of the Department of Water
16 Resources, pursuant to any contract or agreement in accordance
17 with Division 27 (commencing with Section 80000) of the Water
18 Code, and in effect as of February 7, 2001, between the Department
19 of Water Resources and San Diego Gas and Electric Company.

20 (g) The commission shall institute a proceeding to examine the
21 prudence and reasonableness of the San Diego Gas and Electric
22 Company in the procurement of wholesale energy on behalf of its
23 customers, for a period beginning, at the latest, on June 1, 2000.
24 If the commission finds that San Diego Gas and Electric Company
25 acted imprudently or unreasonably, the commission shall issue
26 orders that it determines to be appropriate affecting the retail rates
27 of San Diego Gas and Electric Company customers including, but
28 not limited to, refunds.

29 (h) Nothing in this section may be construed to limit the
30 authority of the Department of Water Resources pursuant to
31 Division 27 (commencing with Section 80000) of the Water Code.

32 *SEC. 17. Section 341.5 of the Public Utilities Code is amended*
33 *to read:*

34 341.5. (a) The Independent System Operator ~~and Power~~
35 ~~Exchange~~ bylaws shall contain provisions that identify those
36 matters specified in ~~subdivision (b)~~ of Section 339 as matters within
37 state jurisdiction. The bylaws shall also contain provisions which
38 state that California's bylaws approval function with respect to
39 the matters specified in ~~subdivision (b)~~ of Section 339 shall not
40 preclude the Federal Energy Regulatory Commission from taking

1 any action necessary to address undue discrimination or other
2 violations of the Federal Power Act (16 U.S.C.A. Sec. 791a et
3 seq.) or to exercise any other commission responsibility under the
4 Federal Power Act. In taking any such action, the Federal Energy
5 Regulatory Commission shall give due respect to California's
6 jurisdictional interests in the functions of the Independent System
7 Operator ~~and Power Exchange~~ and to attempt to accommodate
8 state interests to the extent those interests are not inconsistent with
9 the Federal Energy Regulatory Commission's statutory
10 responsibilities. The bylaws shall state that any future agreement
11 regarding the apportionment of the Independent System Operator
12 ~~and Power Exchange~~ board appointment function among
13 participating states associated with the expansion of the
14 Independent System Operator ~~and Power Exchange~~ into multistate
15 entities shall be filed with the Federal Energy Regulatory
16 Commission pursuant to Section 205 of the Federal Power Act (16
17 U.S.C.A. Sec. 824d).

18 (b) Any necessary bylaw changes to implement the provisions
19 of Section ~~335, 337, 338, 339, 339~~ or subdivision (a) of this section,
20 or changes required pursuant to an agreement as contemplated by
21 subdivision (a) of this section with a participating state for a
22 regional organization, shall be effective upon approval of the
23 respective governing boards ~~and the Oversight Board~~ and
24 acceptance for filing by the Federal Energy Regulatory
25 Commission.

26 *SEC. 18. Section 348 of the Public Utilities Code is amended*
27 *to read:*

28 348. The Independent System Operator shall adopt inspection,
29 maintenance, repair, and replacement standards for the transmission
30 facilities under its ~~control no later than September 30, 1997.~~
31 *control*. The standards, which shall be performance or prescriptive
32 standards, or both, as appropriate, for each substantial type of
33 transmission equipment or facility, shall provide for high quality,
34 safe, and reliable service. In adopting its standards, the Independent
35 System Operator shall consider: cost, local geography and weather,
36 applicable codes, national electric industry practices, sound
37 engineering judgment, and experience. The Independent System
38 Operator shall also adopt standards for reliability, and safety during
39 periods of emergency and disaster. ~~The Independent System~~
40 ~~Operator shall report to the Oversight Board, at such times as the~~

1 Oversight Board may specify, on the development and
2 implementation of the standards in relation to facilities under the
3 operational control of the Independent System Operator. The
4 Independent System Operator shall require each transmission
5 facility owner or operator to report annually on its compliance
6 with the standards. That report shall be made available to the
7 public.

8 *SEC. 19. Section 349.5 of the Public Utilities Code is amended*
9 *to read:*

10 349.5. (a) ~~Beginning January 15, 2002, and at~~ At least once
11 ~~monthly thereafter, each month,~~ the Independent System Operator
12 shall notify each air pollution control district and air quality
13 management district of the name and address of each entity within
14 the district's boundaries within the Independent System Operator's
15 control area with whom the Independent System Operator enters
16 into an interruptible service contract or similar arrangement.

17 (b) For the purposes of this section, "interruptible service
18 contract or similar arrangement" means any arrangement in which
19 a nonresidential entity agrees to reduce or consider reducing its
20 electrical consumption during periods of peak demand or at the
21 request of the Independent System Operator in exchange for
22 compensation, or for assurances not to be blacked out or other
23 similar nonmonetary assurances.

24 (c) The local air pollution control district or air quality
25 management district shall maintain in a confidential manner the
26 information received pursuant to this section. However, nothing
27 in this subdivision shall affect the applicability of Chapter 3.5
28 (commencing with Section 6250) of Division 7 of Title 1 of the
29 Government Code, or of any other similar open records statute or
30 ordinance, to information provided pursuant to this section.

31 *SEC. 20. Section 350 of the Public Utilities Code is repealed.*

32 ~~350. The Independent System Operator, in consultation with~~
33 ~~the California Energy Resources Conservation and Development~~
34 ~~Commission, the Public Utilities Commission, the Western~~
35 ~~Electricity Coordinating Council, and concerned regulatory~~
36 ~~agencies in other western states, shall within six months after the~~
37 ~~Federal Energy Regulatory Commission approval of the~~
38 ~~Independent System Operator, provide a report to the Legislature~~
39 ~~and to the Oversight Board that does the following:~~

- 1 (a) ~~Conducts an independent review and assessment of Western~~
2 ~~Electricity Coordinating Council operating reliability criteria.~~
- 3 (b) ~~Quantifies the economic cost of major transmission outages~~
4 ~~relating to the Pacific Intertie, Southwest Power Link, DC link,~~
5 ~~and other important high voltage lines that carry power both into~~
6 ~~and from California.~~
- 7 (c) ~~Identifies the range of cost-effective options that would~~
8 ~~prevent or mitigate the consequences of major transmission~~
9 ~~outages.~~
- 10 (d) ~~Identifies communication protocols that may be needed to~~
11 ~~be established to provide advance warning of incipient problems.~~
- 12 (e) ~~Identifies the need for additional generation reserves and~~
13 ~~other voltage support equipment, if any, or other resources that~~
14 ~~may be necessary to carry out its functions.~~
- 15 (f) ~~Identifies transmission capacity additions that may be~~
16 ~~necessary at certain times of the year or under certain conditions.~~
- 17 (g) ~~Assesses the adequacy of current and prospective~~
18 ~~institutional provisions for the maintenance of reliability.~~
- 19 (h) ~~Identifies mechanisms to enforce transmission right-of-way~~
20 ~~maintenance.~~
- 21 (i) ~~Contains recommendations regarding cost-beneficial~~
22 ~~improvements to electric system reliability for the citizens of~~
23 ~~California.~~
- 24 *SEC. 21. Section 355 of the Public Utilities Code is repealed.*
- 25 ~~355. The Power Exchange shall provide an efficient competitive~~
26 ~~auction, open on a nondiscriminatory basis to all suppliers, that~~
27 ~~meets the loads of all exchange customers at efficient prices.~~
- 28 *SEC. 22. Section 356 of the Public Utilities Code is repealed.*
- 29 ~~356. The Power Exchange governing board may form~~
30 ~~appropriate technical advisory committees comprised of market~~
31 ~~and nonmarket participants to advise the governing board on~~
32 ~~relevant issues.~~
- 33 *SEC. 23. Section 359 of the Public Utilities Code is amended*
34 *to read:*
- 35 359. (a) It is the intent of the Legislature to provide for the
36 evolution of the Independent System Operator ~~and the Power~~
37 ~~Exchange~~ into regional organizations to promote the development
38 of regional electricity transmission markets in the western states
39 and to improve the access of consumers served by the Independent
40 System Operator ~~and the Power Exchange~~ to those markets.

1 (b) The preferred means by which the voluntary evolution
2 described in subdivision (a) should occur is through the adoption
3 of a regional compact or other comparable agreement among
4 cooperating party states, the retail customers of which states would
5 reside within the geographic territories served by the Independent
6 ~~System Operator and the Power Exchange.~~ *Operator.*

7 (c) The agreement described in subdivision (b) should provide
8 for all of the following:

9 (1) An equitable process for the appointment or confirmation
10 by party states of members of the governing boards of the
11 ~~Independent System Operator and the Power Exchange.~~ *Operator.*

12 (2) A respecification of the size, structure, representation,
13 eligible membership, nominating procedures, and member terms
14 of service of the governing boards of the Independent System
15 ~~Operator and the Power Exchange.~~ *Operator.*

16 (3) Mechanisms by which each party state, jointly or separately,
17 can oversee effectively the actions of the Independent System
18 ~~Operator and the Power Exchange~~ as those actions relate to the
19 assurance of electricity system reliability within the party state
20 and to matters that affect electricity sales to the retail customers
21 of the party state or otherwise affect the general welfare of the
22 electricity consumers and the general public of the party state.

23 (4) The adherence by publicly owned and investor-owned
24 utilities located in party states to enforceable standards and
25 protocols to protect the reliability of the interconnected regional
26 transmission and distribution systems.

27 *SEC. 24. Section 361 of the Public Utilities Code is repealed.*

28 ~~361. The commission shall ensure that any funds secured by
29 the restructuring trusts established for the purposes of developing
30 the Independent System Operator and the Power Exchange shall
31 be placed at the disposal of the Independent System Operator and
32 the Power Exchange respectively.~~

33 *SEC. 25. Section 363 of the Public Utilities Code is repealed.*

34 ~~363. (a) In order to ensure the continued safe and reliable
35 operation of public utility electric generating facilities, the
36 commission shall require in any proceeding under Section 851
37 involving the sale, but not spinoff, of a public utility electric
38 generating facility, for transactions initiated prior to December 31,
39 2001, and approved by the commission by December 31, 2002,
40 that the selling utility contract with the purchaser of the facility~~

1 for the selling utility, an affiliate, or a successor corporation to
2 operate and maintain the facility for at least two years. The
3 commission may require these conditions to be met for transactions
4 initiated on or after January 1, 2002. The commission shall require
5 the contracts to be reasonable for both the seller and the buyer.

6 ~~(b) Subdivision (a) shall apply only if the facility is actually~~
7 ~~operated during the two-year period following the sale. Subdivision~~
8 ~~(a) shall not require the purchaser to operate a facility, nor shall it~~
9 ~~preclude a purchaser from temporarily closing the facility to make~~
10 ~~capital improvements.~~

11 ~~(c) For those bayside fossil fueled electric generation and~~
12 ~~associated transmission facilities that an electrical corporation has~~
13 ~~proposed to divest in a public auction and for which the Legislature~~
14 ~~has appropriated state funds in the Budget Act of 1998 to assist~~
15 ~~local governmental entities in acquiring the facilities or to mitigate~~
16 ~~environmental and community issues, and where the local~~
17 ~~governmental entity proposes that the closure of the power plant~~
18 ~~would serve the public interest by mitigating air, water and other~~
19 ~~environmental, health and safety, and community impacts~~
20 ~~associated with the facilities, and where the local governmental~~
21 ~~entity and electrical corporation have engaged in significant~~
22 ~~negotiations with the purpose of shutting down the power plant,~~
23 ~~and where there is an agreement between the electrical corporation~~
24 ~~and the local governmental entity for closure of the facilities or~~
25 ~~for the local governmental entity to acquire the facilities, the~~
26 ~~commission shall approve the closure of these facilities or the~~
27 ~~transfer of these electric generation and associated transmission~~
28 ~~facilities to the local governmental entity and shall consider the~~
29 ~~utility transactions with the community to be just and reasonable~~
30 ~~for its ratepayers. For purposes of calculating the Competition~~
31 ~~Transition Charge, the commission shall not use any inferred~~
32 ~~market value for the facilities predicated on the continued use of~~
33 ~~the plant, the construction of successor facilities or alternative use~~
34 ~~of the site and shall net the costs of the depreciated book value of~~
35 ~~the power plant and the unrecovered costs of decommissioning,~~
36 ~~environmental remediation and site restoration against the net~~
37 ~~proceeds received from the local governmental entity for the~~
38 ~~acquisition or closure of the facilities. Thereafter, any net proceeds~~
39 ~~received from the ultimate disposition, by the electrical corporation,~~

1 of the site shall be credited to recovery of Competition Transition
2 Charges.

3 *SEC. 26. Section 365 of the Public Utilities Code is amended*
4 *to read:*

5 365. The actions of the commission pursuant to this chapter
6 shall be consistent with the findings and declarations contained in
7 Section 330. In addition, the commission shall do all of the
8 following:

9 (a) Facilitate the efforts of the state's electrical corporations to
10 develop and obtain authorization from the Federal Energy
11 Regulatory Commission for the creation and operation of an
12 Independent System Operator and an independent Power Exchange,
13 *Operator*, for the determination of which transmission and
14 distribution facilities are subject to the exclusive jurisdiction of
15 the commission, and for approval, to the extent necessary, of the
16 cost recovery mechanism established as provided in Sections 367
17 to 376, inclusive. *commission*. The commission shall also
18 participate fully in all proceedings before the Federal Energy
19 Regulatory Commission in connection with the Independent
20 System Operator and the independent Power Exchange, and shall
21 encourage the Federal Energy Regulatory Commission to adopt
22 protocols and procedures that strengthen the reliability of the
23 interconnected transmission grid, encourage all publicly owned
24 utilities in California to become full participants, and maximize
25 enforceability of such protocols and procedures by all market
26 participants.

27 (b) (1) Authorize direct transactions between electricity
28 suppliers and end use customers, subject to implementation of the
29 nonbypassable charge referred to in Sections 367 to 376, inclusive.
30 *competition transition charges*. Direct transactions shall commence
31 simultaneously with the start of an Independent System Operator
32 and Power Exchange referred to in subdivision (a). The
33 simultaneous commencement shall occur as soon as practicable,
34 but no later than January 1, 1998. The commission shall develop
35 a phase-in schedule at the conclusion of which all customers shall
36 have the right to engage in direct transactions. Any phase-in of
37 customer eligibility for direct transactions ordered by the
38 commission shall be equitable to all customer classes and
39 accomplished as soon as practicable, consistent with operational

1 and other technological considerations, and shall be completed for
2 all customers by January 1, 2002.

3 (2) Customers shall be eligible for direct access irrespective of
4 any direct access phase-in implemented pursuant to this section if
5 at least one-half of that customer's electrical load is supplied by
6 energy from a renewable resource provider certified pursuant to
7 Section 383, provided however that nothing in this section shall
8 provide for direct access for electric consumers served by municipal
9 utilities unless so authorized by the governing board of that
10 municipal utility.

11 *SEC. 27. Section 367 of the Public Utilities Code is repealed.*

12 ~~367. The commission shall identify and determine those costs
13 and categories of costs for generation-related assets and obligations,
14 consisting of generation facilities, generation-related regulatory
15 assets, nuclear settlements, and power purchase contracts,
16 including, but not limited to, restructurings, renegotiations or
17 terminations thereof approved by the commission, that were being
18 collected in commission-approved rates on December 20, 1995,
19 and that may become uneconomic as a result of a competitive
20 generation market, in that these costs may not be recoverable in
21 market prices in a competitive market, and appropriate costs
22 incurred after December 20, 1995, for capital additions to
23 generating facilities existing as of December 20, 1995, that the
24 commission determines are reasonable and should be recovered,
25 provided that these additions are necessary to maintain the facilities
26 through December 31, 2001. These uneconomic costs shall include
27 transition costs as defined in subdivision (f) of Section 840, and
28 shall be recovered from all customers or in the case of fixed
29 transition amounts, from the customers specified in subdivision
30 (a) of Section 841, on a nonbypassable basis and shall:~~

31 ~~(a) Be amortized over a reasonable time period, including
32 collection on an accelerated basis, consistent with not increasing
33 rates for any rate schedule, contract, or tariff option above the
34 levels in effect on June 10, 1996; provided that, the recovery shall
35 not extend beyond December 31, 2001, except as follows:~~

36 ~~(1) Costs associated with employee-related transition costs as
37 set forth in subdivision (b) of Section 375 shall continue until fully
38 collected; provided, however, that the cost collection shall not
39 extend beyond December 31, 2006.~~

1 ~~(2) Power purchase contract obligations shall continue for the~~
2 ~~duration of the contract. Costs associated with any buy-out,~~
3 ~~buy-down, or renegotiation of the contracts shall continue to be~~
4 ~~collected for the duration of any agreement governing the buy-out,~~
5 ~~buy-down, or renegotiated contract; provided, however, no power~~
6 ~~purchase contract shall be extended as a result of the buy-out,~~
7 ~~buy-down, or renegotiation.~~

8 ~~(3) Costs associated with contracts approved by the commission~~
9 ~~to settle issues associated with the Biennial Resource Plan Update~~
10 ~~may be collected through March 31, 2002; provided that only 80~~
11 ~~percent of the balance of the costs remaining after December 31,~~
12 ~~2001, shall be eligible for recovery.~~

13 ~~(4) Nuclear incremental cost incentive plans for the San Onofre~~
14 ~~nuclear generating station shall continue for the full term as~~
15 ~~authorized by the commission in Decision 96-01-011 and Decision~~
16 ~~96-04-059; provided that the recovery shall not extend beyond~~
17 ~~December 31, 2003.~~

18 ~~(5) Costs associated with the exemptions provided in subdivision~~
19 ~~(a) of Section 374 may be collected through March 31, 2002,~~
20 ~~provided that only fifty million dollars (\$50,000,000) of the balance~~
21 ~~of the costs remaining after December 31, 2001, shall be eligible~~
22 ~~for recovery.~~

23 ~~(6) Fixed transition amounts, as defined in subdivision (d) of~~
24 ~~Section 840, may be recovered from the customers specified in~~
25 ~~subdivision (a) of Section 841 until all rate reduction bonds~~
26 ~~associated with the fixed transition amounts have been paid in full~~
27 ~~by the financing entity.~~

28 ~~(b) Be based on a calculation mechanism that nets the negative~~
29 ~~value of all above market utility-owned generation-related assets~~
30 ~~against the positive value of all below market utility-owned~~
31 ~~generation related assets. For those assets subject to valuation, the~~
32 ~~valuations used for the calculation of the uneconomic portion of~~
33 ~~the net book value shall be determined not later than December~~
34 ~~31, 2001, and shall be based on appraisal, sale, or other divestiture.~~
35 ~~The commission's determination of the costs eligible for recovery~~
36 ~~and of the valuation of those assets at the time the assets are~~
37 ~~exposed to market risk or retired, in a proceeding under Section~~
38 ~~455.5, 851, or otherwise, shall be final, and notwithstanding Section~~
39 ~~1708 or any other provision of law, may not be rescinded, altered~~
40 ~~or amended.~~

1 ~~(e) Be limited in the case of utility-owned fossil generation to~~
2 ~~the uneconomic portion of the net book value of the fossil capital~~
3 ~~investment existing as of January 1, 1998, and appropriate costs~~
4 ~~incurred after December 20, 1995, for capital additions to~~
5 ~~generating facilities existing as of December 20, 1995, that the~~
6 ~~commission determines are reasonable and should be recovered,~~
7 ~~provided that the additions are necessary to maintain the facilities~~
8 ~~through December 31, 2001. All “going forward costs” of fossil~~
9 ~~plant operation, including operation and maintenance,~~
10 ~~administrative and general, fuel and fuel transportation costs, shall~~
11 ~~be recovered solely from independent Power Exchange revenues~~
12 ~~or from contracts with the Independent System Operator, provided~~
13 ~~that for the purposes of this chapter, the following costs may be~~
14 ~~recoverable pursuant to this section:~~

15 ~~(1) Commission-approved operating costs for particular~~
16 ~~utility-owned fossil powerplants or units, at particular times when~~
17 ~~reactive power/voltage support is not yet procurable at~~
18 ~~market-based rates in locations where it is deemed needed for the~~
19 ~~reactive power/voltage support by the Independent System~~
20 ~~Operator, provided that the units are otherwise authorized to~~
21 ~~recover market-based rates and provided further that for an~~
22 ~~electrical corporation that is also a gas corporation and that serves~~
23 ~~at least four million customers as of December 20, 1995, the~~
24 ~~commission shall allow the electrical corporation to retain any~~
25 ~~earnings from operations of the reactive power/voltage support~~
26 ~~plants or units and shall not require the utility to apply any portions~~
27 ~~to offset recovery of transition costs. Cost recovery under the cost~~
28 ~~recovery mechanism shall end on December 31, 2001.~~

29 ~~(2) An electrical corporation that, as of December 20, 1995,~~
30 ~~served at least four million customers, and that was also a gas~~
31 ~~corporation that served less than four thousand customers, may~~
32 ~~recover, pursuant to this section, 100 percent of the uneconomic~~
33 ~~portion of the fixed costs paid under fuel and fuel transportation~~
34 ~~contracts that were executed prior to December 20, 1995, and were~~
35 ~~subsequently determined to be reasonable by the commission, or~~
36 ~~100 percent of the buy-down or buy-out costs associated with the~~
37 ~~contracts to the extent the costs are determined to be reasonable~~
38 ~~by the commission.~~

39 ~~(d) Be adjusted throughout the period through March 31, 2002,~~
40 ~~to track accrual and recovery of costs provided for in this~~

1 subdivision. Recovery of costs prior to December 31, 2001, shall
2 include a return as provided for in Decision 95-12-063, as modified
3 by Decision 96-01-009, together with associated taxes.

4 (e) (1) Be allocated among the various classes of customers,
5 rate schedules, and tariff options to ensure that costs are recovered
6 from these classes, rate schedules, contract rates, and tariff options,
7 including self-generation deferral, interruptible, and standby rate
8 options in substantially the same proportion as similar costs are
9 recovered as of June 10, 1996, through the regulated retail rates
10 of the relevant electric utility, provided that there shall be a firewall
11 segregating the recovery of the costs of competition transition
12 charge exemptions such that the costs of competition transition
13 charge exemptions granted to members of the combined class of
14 residential and small commercial customers shall be recovered
15 only from these customers, and the costs of competition transition
16 charge exemptions granted to members of the combined class of
17 customers, other than residential and small commercial customers,
18 shall be recovered only from these customers.

19 (2) Individual customers shall not experience rate increases as
20 a result of the allocation of transition costs. However, customers
21 who elect to purchase energy from suppliers other than the Power
22 Exchange through a direct transaction, may incur increases in the
23 total price they pay for electricity to the extent the price for the
24 energy exceeds the Power Exchange price.

25 (3) The commission shall retain existing cost allocation
26 authority, provided the firewall and rate freeze principles are not
27 violated.

28 *SEC. 28. Section 367.7 of the Public Utilities Code is repealed.*

29 ~~367.7. (a) It is the intent of the Legislature in enacting this~~
30 ~~section to ensure that individual customers do not experience rate~~
31 ~~increases as a result of the allocation of transition costs, in~~
32 ~~accordance with paragraph (2) of subdivision (e) of Section 367.~~

33 ~~(b) The commission shall implement a methodology whereby~~
34 ~~the Power Exchange energy credit for a customer with a meter~~
35 ~~installed on or after June 30, 2000, that is capable of recording~~
36 ~~hourly data is calculated based on the actual hourly data for that~~
37 ~~customer. The Power Exchange energy credit for a customer with~~
38 ~~a meter installed before June 30, 2000, that is capable of recording~~
39 ~~hourly data shall, at the election of the customer, on a one-time~~
40 ~~basis before June 30, 2000, be calculated based on either (1) the~~

1 actual hourly data for that customer or (2) the average load profile
2 for that customer class. If the customer fails to make an election,
3 that customer's Power Exchange energy credit shall continue to
4 be based on the average load profile for that customer class.

5 (e) Additional incremental billing costs incurred as a result of
6 the methodology implemented by the commission pursuant to
7 subdivision (b) may be recoverable through rates for that customer
8 class, if the commission finds that the costs are reasonable.

9 (d) The methodology implemented by the commission pursuant
10 to subdivisions (b) and (e) shall not result in any shifts in cost
11 between customer classes and shall be consistent with the firewall
12 provision set forth in subdivision (c) of Section 367.

13 *SEC. 29. Section 368 of the Public Utilities Code is amended*
14 *to read:*

15 368. Each electrical corporation shall propose a cost recovery
16 plan to the commission for the recovery of the uneconomic costs
17 of an electrical corporation's generation-related assets and
18 obligations identified in Section 367. The commission shall
19 authorize the electrical corporation to recover the costs pursuant
20 to the plan if the plan meets the following criteria: *provide for*
21 *identification and separation of individual rate components such*
22 *as charges for energy, transmission, distribution, public benefit*
23 *programs, and recovery of uneconomic costs. The separation of*
24 *rate components required by this section shall be used to ensure*
25 *that customers of the electrical corporation who purchase*
26 *electricity from suppliers other than the electrical corporation pay*
27 *the same unbundled component charges, other than energy, that*
28 *a bundled service customer pays.*

29 (a) ~~The cost recovery plan shall set rates for each customer class,~~
30 ~~rate schedule, contract, or tariff option, at levels equal to the level~~
31 ~~as shown on electric rate schedules as of June 10, 1996, provided~~
32 ~~that rates for residential and small commercial customers shall be~~
33 ~~reduced so that these customers shall receive rate reductions of no~~
34 ~~less than 10 percent for 1998 continuing through 2002. These rate~~
35 ~~levels for each customer class, rate schedule, contract, or tariff~~
36 ~~option shall remain in effect until the earlier of March 31, 2002,~~
37 ~~or the date on which the commission-authorized costs for utility~~
38 ~~generation-related assets and obligations have been fully recovered.~~
39 ~~The electrical corporation shall be at risk for those costs not~~
40 ~~recovered during that time period. Each utility shall amortize its~~

1 total uneconomic costs, to the extent possible, such that for each
2 year during the transition period its recorded rate of return on the
3 remaining uneconomic assets does not exceed its authorized rate
4 of return for those assets. For purposes of determining the extent
5 to which the costs have been recovered, any over-collections
6 recorded in Energy Costs Adjustment Clause and Electric Revenue
7 Adjustment Mechanism balancing accounts, as of December 31,
8 1996, shall be credited to the recovery of the costs.

9 (b) The cost recovery plan shall provide for identification and
10 separation of individual rate components such as charges for
11 energy, transmission, distribution, public benefit programs, and
12 recovery of uneconomic costs. The separation of rate components
13 required by this subdivision shall be used to ensure that customers
14 of the electrical corporation who become eligible to purchase
15 electricity from suppliers other than the electrical corporation pay
16 the same unbundled component charges, other than energy, that a
17 bundled service customer pays. No cost shifting among customer
18 classes, rate schedules, contract, or tariff options shall result from
19 the separation required by this subdivision. Nothing in this
20 provision is intended to affect the rates, terms, and conditions or
21 to limit the use of any Federal Energy Regulatory
22 Commission-approved contract entered into by the electrical
23 corporation prior to the effective date of this provision.

24 (c) In consideration of the risk that the uneconomic costs
25 identified in Section 367 may not be recoverable within the period
26 identified in subdivision (a) of Section 367, an electrical
27 corporation that, as of December 20, 1995, served more than four
28 million customers, and was also a gas corporation that served less
29 than four thousand customers, shall have the flexibility to employ
30 risk management tools, such as forward hedges, to manage the
31 market price volatility associated with unexpected fluctuations in
32 natural gas prices, and the out-of-pocket costs of acquiring the risk
33 management tools shall be considered reasonable and collectible
34 within the transition freeze period. This subdivision applies only
35 to the transaction costs associated with the risk management tools
36 and shall not include any losses from changes in market prices.

37 (d) In order to ensure implementation of the cost recovery plan,
38 the limitation on the maximum amount of cost recovery for nuclear
39 facilities that may be collected in any year adopted by the
40 commission in Decision 96-01-011 and Decision 96-04-059 shall

1 ~~be eliminated to allow the maximum opportunity to collect the~~
2 ~~nuclear costs within the transition cap period.~~

3 ~~(e) As to an electrical corporation that is also a gas corporation~~
4 ~~serving more than four million California customers, so long as~~
5 ~~any cost recovery plan adopted in accordance with this section~~
6 ~~satisfies subdivision (a), it shall also provide for annual increases~~
7 ~~in base revenues, effective January 1, 1997, and January 1, 1998,~~
8 ~~equal to the inflation rate for the prior year plus two percentage~~
9 ~~points, as measured by the consumer price index. The increase~~
10 ~~shall do both of the following:~~

11 ~~(1) Remain in effect pending the next general rate case review,~~
12 ~~which shall be filed not later than December 31, 1997, for rates~~
13 ~~that would become effective in January 1999. For purposes of any~~
14 ~~commission-approved performance-based ratemaking mechanism~~
15 ~~or general rate case review, the increases in base revenue authorized~~
16 ~~by this subdivision shall create no presumption that the level of~~
17 ~~base revenue reflecting those increases constitute the appropriate~~
18 ~~starting point for subsequent revenues.~~

19 ~~(2) Be used by the utility for the purposes of enhancing its~~
20 ~~transmission and distribution system safety and reliability,~~
21 ~~including, but not limited to, vegetation management and~~
22 ~~emergency response. To the extent the revenues are not expended~~
23 ~~for system safety and reliability, they shall be credited against~~
24 ~~subsequent safety and reliability base revenue requirements. Any~~
25 ~~excess revenues carried over shall not be used to pay any monetary~~
26 ~~sanctions imposed by the commission.~~

27 ~~(f) The cost recovery plan shall provide the electrical corporation~~
28 ~~with the flexibility to manage the renegotiation, buy-out, or~~
29 ~~buy-down of the electrical corporation's power purchase~~
30 ~~obligations, consistent with review by the commission to assure~~
31 ~~that the terms provide net benefits to ratepayers and are otherwise~~
32 ~~reasonable in protecting the interests of both ratepayers and~~
33 ~~shareholders.~~

34 ~~(g) An example of a plan authorized by this section is the~~
35 ~~document entitled "Restructuring Rate Settlement" transmitted to~~
36 ~~the commission by Pacific Gas and Electric Company on June 12,~~
37 ~~1996.~~

38 *SEC. 30. Section 368.5 of the Public Utilities Code is repealed.*

39 ~~368.5. (a) Notwithstanding any other provision of law, upon~~
40 ~~the termination of the 10-percent rate reduction for residential and~~

1 small commercial customers set forth in subdivision (a) of Section
2 368, the commission may not subject those residential and small
3 commercial customers to any rate increases or future rate
4 obligations solely as a result of the termination of the 10-percent
5 rate reduction.

6 ~~(b) The provisions of subdivision (a) do not affect the authority~~
7 ~~of the commission to raise rates for reasons other than the~~
8 ~~termination of the 10-percent rate reduction set forth in subdivision~~
9 ~~(a) of Section 368.~~

10 ~~(c) Nothing in this section shall further extend the authority to~~
11 ~~impose fixed transition amounts, as defined in subdivision (d) of~~
12 ~~Section 840, or further authorize or extend rate reduction bonds,~~
13 ~~as defined in subdivision (e) of Section 840.~~

14 *SEC. 31. Section 369 of the Public Utilities Code is amended*
15 *to read:*

16 369. ~~The commission shall establish an effective mechanism~~
17 ~~that ensures recovery of transition costs referred to in Sections~~
18 ~~367, 368, 375, and 376, and Competition transition charges, subject~~
19 ~~to the conditions in Sections 371 to 374, inclusive, from the~~
20 ~~recovery of which was authorized by the commission prior to~~
21 ~~January 1, 2015, shall continue to apply to all existing and future~~
22 ~~consumers in the service territory in which the utility provided~~
23 ~~electricity services as of December 20, 1995; provided, that the~~
24 ~~costs shall not be recoverable for new customer load or incremental~~
25 ~~load of an existing customer where the load is being met through~~
26 ~~a direct transaction and the transaction does not otherwise require~~
27 ~~the use of transmission or distribution facilities owned by the~~
28 ~~utility. However, the obligation to pay the competition transition~~
29 ~~charges cannot be avoided by the formation of a local publicly~~
30 ~~owned electrical corporation on or after December 20, 1995, or~~
31 ~~by annexation of any portion of an electrical corporation's service~~
32 ~~area by an existing local publicly owned electric utility.~~

33 This section shall not apply to service taken under tariffs,
34 contracts, or rate schedules that are on file, accepted, or approved
35 by the Federal Energy Regulatory Commission, unless otherwise
36 authorized by the Federal Energy Regulatory Commission.

37 *SEC. 32. Section 370 of the Public Utilities Code is amended*
38 *to read:*

39 370. The commission shall require, as a prerequisite for any
40 consumer in California to engage in direct transactions permitted

1 in Section 365, that beginning with the commencement of these
2 direct transactions, the consumer shall have an obligation to pay
3 ~~the costs provided in Sections 367, 368, 375, and 376, competition~~
4 ~~transition charges~~, and subject to the conditions in Sections 371
5 to 374, inclusive, directly to the electrical corporation providing
6 electricity service in the area in which the consumer is located.
7 This obligation shall be set forth in the applicable rate schedule,
8 contract, or tariff option under which the customer is receiving
9 service from the electrical corporation. To the extent the consumer
10 does not use the electrical corporation's facilities for direct
11 transaction, the obligation to pay shall be confirmed in writing,
12 and the customer shall be advised by any electricity marketer
13 engaged in the transaction of the requirement that the customer
14 execute a confirmation. The requirement for marketers to inform
15 customers of the written requirement shall cease on January 1,
16 2002.

17 *SEC. 33. Section 371 of the Public Utilities Code is amended*
18 *to read:*

19 371. (a) Except as provided in Sections 372 and 374, ~~the~~
20 ~~uneconomic costs provided in Sections 367, 368, 375, and 376~~
21 ~~competition transition charges~~ shall be applied to each customer
22 based on the amount of electricity purchased by the customer from
23 an electrical corporation or alternate supplier of electricity, subject
24 to changes in usage occurring in the normal course of business.

25 (b) Changes in usage occurring in the normal course of business
26 are those resulting from changes in business cycles, termination
27 of operations, departure from the utility service territory, weather,
28 reduced production, modifications to production equipment or
29 operations, changes in production or manufacturing processes,
30 fuel switching, including installation of fuel cells pending a
31 contrary determination by the ~~California Energy Resources~~
32 ~~Conservation and Development Commission in Section 383,~~
33 *Energy Commission*, enhancement or increased efficiency of
34 equipment or performance of existing self-cogeneration equipment,
35 replacement of existing cogeneration equipment with new power
36 generation equipment of similar size as described in paragraph (1)
37 of subdivision (a) of Section 372, installation of demand-side
38 management equipment or facilities, energy conservation efforts,
39 or other similar factors.

1 (c) Nothing in this section shall be interpreted to exempt or alter
2 the obligation of a customer to comply with Chapter 5
3 (commencing with Section 119075) of Part 15 of Division 104 of
4 the Health and Safety Code. Nothing in this section shall be
5 construed as a limitation on the ability of residential customers to
6 alter their pattern of electricity purchases by activities on the
7 customer side of the meter.

8 *SEC. 34. Section 372 of the Public Utilities Code is amended*
9 *to read:*

10 372. (a) It is the policy of the state to encourage and support
11 the development of cogeneration as an efficient, environmentally
12 beneficial, competitive energy resource that will enhance the
13 reliability of local generation supply, and promote local business
14 growth. Subject to the specific conditions provided in this section,
15 the commission shall determine the applicability to customers of
16 ~~uneconomic costs as specified in Sections 367, 368, 375, and 376.~~
17 *competition transition charges.* Consistent with this state policy,
18 the commission shall provide that these costs shall not apply to
19 any of the following:

20 (1) To load served onsite or under an over the fence arrangement
21 by a nonmobile self-cogeneration or cogeneration facility that was
22 operational on or before December 20, 1995, or by increases in
23 the capacity of a facility to the extent that the increased capacity
24 was constructed by an entity holding an ownership interest in or
25 operating the facility and does not exceed 120 percent of the
26 installed capacity as of December 20, 1995, provided that prior to
27 June 30, 2000, the costs shall apply to over the fence arrangements
28 entered into after December 20, 1995, between unaffiliated parties.
29 For the purposes of this subdivision, “affiliated” means any person
30 or entity that directly, or indirectly through one or more
31 intermediaries, controls, is controlled by, or is under common
32 control with another specified entity. “Control” means either of
33 the following:

34 (A) The possession, directly or indirectly, of the power to direct
35 or to cause the direction of the management or policies of a person
36 or entity, whether through an ownership, beneficial, contractual,
37 or equitable interest.

38 (B) Direct or indirect ownership of at least 25 percent of an
39 entity, whether through an ownership, beneficial, or equitable
40 interest.

1 (2) To load served by onsite or under an over the fence
2 arrangement by a nonmobile self-cogeneration or cogeneration
3 facility for which the customer was committed to construction as
4 of December 20, 1995, provided that the facility was substantially
5 operational on or before January 1, 1998, or by increases in the
6 capacity of a facility to the extent that the increased capacity was
7 constructed by an entity holding an ownership interest in or
8 operating the facility and does not exceed 120 percent of the
9 installed capacity as of January 1, 1998, provided that prior to June
10 30, 2000, the costs shall apply to over the fence arrangements
11 entered into after December 20, 1995, between unaffiliated parties.

12 (3) To load served by existing, new, or portable emergency
13 generation equipment used to serve the customer's load
14 requirements during periods when utility service is unavailable,
15 provided the emergency generation is not operated in parallel with
16 the integrated electric grid, except on a momentary parallel basis.

17 (4) After June 30, 2000, to any load served onsite or under an
18 over the fence arrangement by any nonmobile self-cogeneration
19 or cogeneration facility.

20 (b) Further, consistent with state policy, with respect to
21 self-cogeneration or cogeneration deferral agreements, the
22 commission shall do the following:

23 (1) Provide that a utility shall execute a final self-cogeneration
24 or cogeneration deferral agreement with any customer that, on or
25 before December 20, 1995, had executed a letter of intent (or
26 similar documentation) to enter into the agreement with the utility,
27 provided that the final agreement shall be consistent with the terms
28 and conditions set forth in the letter of intent and the commission
29 shall review and approve the final agreement.

30 (2) Provide that a customer that holds a self-cogeneration or
31 cogeneration deferral agreement that was in place on or before
32 December 20, 1995, or that was executed pursuant to paragraph
33 (1) in the event the agreement expires, or is terminated, may do
34 any of the following:

35 (A) Continue through December 31, 2001, to receive utility
36 service at the rate and under terms and conditions applicable to
37 the customer under the deferral agreement that, as executed,
38 includes an allocation of uneconomic costs consistent with
39 subdivision (e) of Section 367.

1 (B) Engage in a direct transaction for the purchase of electricity
2 and pay uneconomic costs consistent with Sections ~~367, 368, 375,~~
3 ~~367~~ and 376.

4 (C) Construct a self-cogeneration or cogeneration facility of
5 approximately the same capacity as the facility previously deferred,
6 provided that the costs provided in Sections ~~367, 368, 375,~~ ~~367~~
7 and 376 shall apply consistent with subdivision (e) of Section 367,
8 unless otherwise authorized by the commission pursuant to
9 subdivision (c).

10 (3) Subject to the firewall described in subdivision (e) of Section
11 367, provide that the ratemaking treatment for self-cogeneration
12 or cogeneration deferral agreements executed prior to December
13 20, 1995, or executed pursuant to paragraph (1) shall be consistent
14 with the ratemaking treatment for the contracts approved before
15 January 1995.

16 (c) The commission shall authorize, within 60 days of the receipt
17 of a joint application from the serving utility and one or more
18 interested parties, applicability conditions as follows:

19 (1) ~~The costs identified in Sections 367, 368, 375, and 376~~
20 *Competition transition charges* shall not, prior to June 30, 2000,
21 apply to load served onsite by a nonmobile self-cogeneration or
22 cogeneration facility that became operational on or after December
23 20, 1995.

24 (2) ~~The costs identified in Sections 367, 368, 375, and 376~~
25 *Competition transition charges* shall not, prior to June 30, 2000,
26 apply to any load served under over the fence arrangements entered
27 into after December 20, 1995, between unaffiliated entities.

28 (d) For the purposes of this subdivision, all onsite or over the
29 fence arrangements shall be consistent with Section 218 as it
30 existed on December 20, 1995.

31 (e) To facilitate the development of new microcogeneration
32 applications, electrical corporations may apply to the commission
33 for a financing order to finance the transition costs to be recovered
34 from customers employing the applications.

35 (f) To encourage the continued development, installation, and
36 interconnection of clean and efficient self-generation and
37 cogeneration resources, to improve system reliability for consumers
38 by retaining existing generation and encouraging new generation
39 to connect to the electric grid, and to increase self-sufficiency of

1 consumers of electricity through the deployment of self-generation
2 and cogeneration, both of the following shall occur:

3 (1) The commission and the Electricity Oversight Board shall
4 determine if any policy or action undertaken by the Independent
5 System Operator, directly or indirectly, unreasonably discourages
6 the connection of existing self-generation or cogeneration or new
7 self-generation or cogeneration to the grid.

8 (2) If the commission and the Electricity Oversight Board find
9 *finds* that any policy or action of the Independent System Operator
10 unreasonably discourages the connection of existing self-generation
11 or cogeneration or new self-generation or cogeneration to the grid,
12 the commission and the Electricity Oversight Board shall undertake
13 all necessary efforts to revise, mitigate, or eliminate that policy or
14 action of the Independent System Operator.

15 *SEC. 35. Section 373 of the Public Utilities Code is repealed.*

16 ~~373. (a) Electrical corporations may apply to the commission
17 for an order determining that the costs identified in Sections 367,
18 368, 375, and 376 not be collected from a particular class of
19 customer or category of electricity consumption.~~

20 ~~(b) Subject to the fire wall specified in subdivision (c) of Section
21 367, the provisions of this section and Sections 372 and 374 shall
22 apply in the event the commission authorizes a nonbypassable
23 charge prior to the implementation of an Independent System
24 Operator and Power Exchange referred to in subdivision (a) of
25 Section 365.~~

26 *SEC. 36. Section 374 of the Public Utilities Code is amended
27 to read:*

28 ~~374. (a) In recognition of statutory authority and past
29 investments existing as of December 20, 1995, and subject to the
30 firewall specified in subdivision (c) of Section 367, the obligation
31 to pay the uneconomic costs identified in Sections 367, 368, 375,
32 and 376—*Competition transition charges* shall not apply to the
33 following:~~

34 (1) One hundred ten megawatts of load served by irrigation
35 districts, as hereafter allocated by this paragraph:

36 (A) The 110 megawatts of load shall be allocated among the
37 service territories of the three largest electrical corporations in the
38 ratio of the number of irrigation districts in the service territory of
39 each utility to the total number of irrigation districts in the service
40 territories of all three utilities.

1 (B) The total amount of load allocated to each utility service
2 area shall be phased in over five years beginning January 1, 1997,
3 so that one-fifth of the allocation is allocated in each of the five
4 years. Any allocation that remains unused at the end of any year
5 shall be carried over to the succeeding year and added to the
6 allocation for that year.

7 (C) The load allocated to each utility service territory pursuant
8 to subparagraph (A) shall be further allocated among the respective
9 irrigation districts within that service territory by the ~~California~~
10 ~~Energy Resources Conservation and Development~~ *Energy*
11 Commission. An individual irrigation district requesting an
12 allocation shall submit to the commission by January 31, 1997,
13 detailed plans that show the load that it serves or will serve and
14 for which it intends to utilize the allocation within the timeframe
15 requested. These plans shall include specific information on the
16 irrigation districts' organization for electric distribution, contracts,
17 financing and engineering plans for capital facilities, as well as
18 detailed information about the loads to be served, and shall not be
19 less than eight megawatts or more than 40 megawatts, provided,
20 however, that any portion of the 110 megawatts that remains
21 unallocated may be reallocated to projects without regard to the
22 40 megawatts limitation. In making an allocation among irrigation
23 districts, the ~~Energy Resources Conservation and Development~~
24 Commission shall assess the viability of each submission and
25 whether it can be accomplished in the timeframe proposed. The
26 ~~Energy Resources Conservation and Development~~ Commission
27 shall have the discretion to allocate the load covered by this section
28 in a manner that best ensures its usage within the allocation period.

29 (D) At least 50 percent of each year's allocation to a district
30 shall be applied to that portion of load that is used to power pumps
31 for agricultural purposes.

32 (E) Any load pursuant to this subdivision shall be served by
33 distribution facilities owned by, or leased to, the district in question.

34 (F) Any load allocated pursuant to paragraph (1) shall be located
35 within the boundaries of the affected irrigation district, or within
36 the boundaries specified in an applicable service territory boundary
37 agreement between an electrical corporation and the affected
38 irrigation district; additionally, the provisions of subparagraph (C)
39 of paragraph (1) shall be applicable to any load within the Counties

1 of Stanislaus or San Joaquin, or both, served by any irrigation
2 district that is currently serving or will be serving retail customers.

3 (2) Seventy-five megawatts of load served by the Merced
4 Irrigation District hereafter prescribed in this paragraph:

5 (A) The total allocation provided by this paragraph shall be
6 phased in over five years beginning January 1, 1997, so that
7 one-fifth of the allocation is received in each of the five years. Any
8 allocation that remains unused at the end of any year shall be
9 carried over to the succeeding year and added to the allocation for
10 that year.

11 (B) Any load to which the provision of this paragraph is
12 applicable shall be served by distribution facilities owned by, or
13 leased to, Merced Irrigation District.

14 (C) A load to which the provisions of this paragraph are
15 applicable shall be located within the boundaries of Merced
16 Irrigation District as those boundaries existed on December 20,
17 1995, together with the territory of Castle Air Force Base that was
18 located outside of the district on that date.

19 (D) The total allocation provided by this paragraph shall be
20 phased in over five years beginning January 1, 1997, with the
21 exception of load already being served by the district as of June
22 1, 1996, which shall be deducted from the total allocation and shall
23 not be subject to the costs provided in Sections 367, 368, 375, and
24 ~~376~~. *competition transition charges*.

25 (3) To loads served by irrigation districts, water districts, water
26 storage districts, municipal utility districts, and other water agencies
27 that, on December 20, 1995, were members of the Southern San
28 Joaquin Valley Power Authority, or the Eastside Power Authority,
29 provided, however, that this paragraph shall be applicable only to
30 that portion of each district or agency's load that is used to power
31 pumps that are owned by that district or agency as of December
32 20, 1995, or replacements thereof, and is being used to pump water
33 for district purposes. The rates applicable to these districts and
34 agencies shall be adjusted as of January 1, 1997.

35 (4) The provisions of this subdivision shall no longer be
36 operative after March 31, 2002.

37 (5) The provisions of paragraph (1) shall not be applicable to
38 any irrigation district, water district, or water agency described in
39 paragraph (2) or (3).

1 (6) Transmission services provided to any irrigation district
2 described in paragraph (1) or (2) shall be provided pursuant to
3 otherwise applicable tariffs.

4 (7) Nothing in this chapter shall be deemed to grant the
5 commission any jurisdiction over irrigation districts not already
6 granted to the commission by existing law.

7 (b) To give the full effect to the legislative intent in enacting
8 Section 701.8, ~~the costs provided in Sections 367, 368, 375, and~~
9 ~~376 competition transition charges~~ shall not apply to the load
10 served by preference power purchased from a federal power
11 marketing agency, or its successor, pursuant to Section 701.8 as
12 it existed on January 1, 1996, provided that the power is used solely
13 for the customer's own systems load and not for sale. The costs
14 of this provision shall be borne by all ratepayers in the affected
15 service territory, notwithstanding the firewall established in
16 subdivision (e) of Section 367.

17 (c) To give effect to an existing relationship, the obligation to
18 ~~pay the uneconomic costs specified in Sections 367, 368, 375, and~~
19 ~~376 competition transition charges~~ shall not apply to that portion
20 of the load of the University of California campus situated in Yolo
21 County that was being served as of May 31, 1996, by preference
22 power purchased from a federal marketing agency, or its successor,
23 provided that the power is used solely for the facility load of that
24 campus and not, directly or indirectly, for sale.

25 *SEC. 37. Section 374.5 of the Public Utilities Code is repealed.*

26 ~~374.5. Any electrical corporation serving agricultural customers~~
27 ~~that have multiple electric meters shall conduct research based on~~
28 ~~a statistically valid sample of those customers and meters to~~
29 ~~determine the typical simultaneous peak load of those customers.~~
30 ~~The results of the research shall be reported to the customers and~~
31 ~~the commission not later than July 1, 2001. The commission shall~~
32 ~~consider the research results in setting future electric distribution~~
33 ~~rates for those customers.~~

34 *SEC. 38. Section 375 of the Public Utilities Code is repealed.*

35 ~~375. (a) In order to mitigate potential negative impacts on~~
36 ~~utility personnel directly affected by electric industry restructuring,~~
37 ~~as described in Decision 95-12-063, as modified by Decision~~
38 ~~96-01-009, the commission shall allow the recovery of reasonable~~
39 ~~employee related transition costs incurred and projected for~~

1 severance, retraining, early retirement, outplacement and related
2 expenses for the employees.

3 (b) ~~The costs, including employee related transition costs for~~
4 ~~employees performing services in connection with Section 363,~~
5 ~~shall be added to the amount of uneconomic costs allowed to be~~
6 ~~recovered pursuant to this section and Sections 367, 368, and 376,~~
7 ~~provided recovery of these employee related transition costs shall~~
8 ~~extend beyond December 31, 2001, provided recovery of the costs~~
9 ~~shall not extend beyond December 31, 2006. However, there shall~~
10 ~~be no recovery for employee related transition costs associated~~
11 ~~with officers, senior supervisory employees, and professional~~
12 ~~employees performing predominantly regulatory functions.~~

13 *SEC. 39. Section 376 of the Public Utilities Code is repealed.*

14 ~~376. To the extent that the costs of programs to accommodate~~
15 ~~implementation of direct access, the Power Exchange, and the~~
16 ~~Independent System Operator, that have been funded by an~~
17 ~~electrical corporation and have been found by the commission or~~
18 ~~the Federal Energy Regulatory Commission to be recoverable from~~
19 ~~the utility's customers, reduce an electrical corporation's~~
20 ~~opportunity to recover its utility generation-related plant and~~
21 ~~regulatory assets by the end of the year 2001, the electrical~~
22 ~~corporation may recover unrecovered utility generation-related~~
23 ~~plant and regulatory assets after December 31, 2001, in an amount~~
24 ~~equal to the utility's cost of commission-approved or Federal~~
25 ~~Energy Regulatory Commission approved restructuring-related~~
26 ~~implementation programs. An electrical corporation's ability to~~
27 ~~collect the amounts from retail customers after the year 2001 shall~~
28 ~~be reduced to the extent the Independent System Operator or the~~
29 ~~Power Exchange reimburses the electrical corporation for the costs~~
30 ~~of any of these programs.~~

31 *SEC. 40. Section 379 of the Public Utilities Code is amended*
32 *to read:*

33 ~~379. Nuclear decommissioning costs shall not be part of the~~
34 ~~costs described in Sections 367, 368, 375, and 376; competition~~
35 ~~transition charges, but shall be recovered as a nonbypassable~~
36 ~~charge until the time as the costs are fully recovered. Recovery of~~
37 ~~decommissioning costs may be accelerated to the extent possible.~~

38 *SEC. 41. Section 390 of the Public Utilities Code is repealed.*

39 ~~390. (a) Subject to applicable contractual terms, energy prices~~
40 ~~paid to nonutility power generators by a public utility electrical~~

1 corporation based upon the commission's prescribed "short-run
2 avoided cost energy methodology" shall be determined as set forth
3 in subdivisions (b) and (c).

4 (b) Until the requirements of subdivision (c) have been satisfied,
5 short-run avoided cost energy payments paid to nonutility power
6 generators by an electrical corporation shall be based on a formula
7 that reflects a starting energy price, adjusted monthly to reflect
8 changes in a starting gas index price in relation to an average of
9 current California natural gas border price indices. The starting
10 energy price shall be based on 12-month averages of recent,
11 pre-January 1, 1996, short-run avoided energy prices paid by each
12 public utility electrical corporation to nonutility power generators.
13 The starting gas index price shall be established as an average of
14 index gas prices for the same annual periods.

15 (c) The short-run avoided cost energy payments paid to
16 nonutility power generators by electrical corporations shall be
17 based on the clearing price paid by the independent Power
18 Exchange if (1) the commission has issued an order determining
19 that the independent Power Exchange is functioning properly for
20 the purposes of determining the short-run avoided cost energy
21 payments to be made to nonutility power generators, and either
22 (2) the fossil-fired generation units owned, directly or indirectly,
23 by the public utility electrical corporation are authorized to charge
24 market-based rates and the "going forward" costs of those units
25 are being recovered solely through the clearing prices paid by the
26 independent Power Exchange or from contracts with the
27 Independent System Operator, whether those contracts are
28 market-based or based on operating costs for particular
29 utility-owned powerplant units and at particular times when
30 reactive power/voltage support is not yet procurable at
31 market-based rates at locations where it is needed, and are not
32 being recovered directly or indirectly through any other source,
33 or (3) the public utility electrical corporation has divested 90
34 percent of its gas-fired generation facilities that were operated to
35 meet load in 1994 and 1995. However, nonutility power generators
36 subject to this section may, upon appropriate notice to the public
37 utility electrical corporation, exercise a one-time option to elect
38 to thereafter receive energy payments based upon the clearing
39 price from the independent Power Exchange.

1 ~~(d) If a nonutility power generator is being paid short-run~~
2 ~~avoided costs energy payments by an electrical corporation by a~~
3 ~~firm capacity contract, a forecast as-available capacity contract,~~
4 ~~or a forecast as-delivered capacity contract on the basis of the~~
5 ~~clearing price paid by the independent Power Exchange as~~
6 ~~described in subdivision (c) above, the value of capacity in the~~
7 ~~clearing price, if any, shall not be paid to the nonutility power~~
8 ~~generator. The value of capacity in the clearing price, if any, equals~~
9 ~~the difference between the market clearing customer demand bid~~
10 ~~at the level of generation dispatched by the independent Power~~
11 ~~Exchange and the highest supplier bid dispatched.~~

12 ~~(e) Short-run avoided energy cost payments made pursuant to~~
13 ~~this section are in addition to contractually specified capacity~~
14 ~~payments. Nothing in this section shall be construed to affect,~~
15 ~~modify or amend the terms and conditions of existing nonutility~~
16 ~~power generators' contracts with respect to the sale of energy or~~
17 ~~capacity or otherwise.~~

18 ~~(f) Nothing in this section shall be construed to limit the level~~
19 ~~of transition cost recovery provided to utilities under electric~~
20 ~~industry restructuring policies established by the commission.~~

21 ~~(g) The term "going forward costs" shall include, but not be~~
22 ~~limited to, all costs associated with fuel transportation and fuel~~
23 ~~supply, administrative and general, and operation and maintenance;~~
24 ~~provided that, for purposes of this section, the following shall not~~
25 ~~be considered "going forward costs": (1) commission-approved~~
26 ~~capital costs for capital additions to fossil-fueled powerplants,~~
27 ~~provided that such additions are necessary for the continued~~
28 ~~operation of the powerplants utilized to meet load and such~~
29 ~~additions are not undertaken primarily to expand, repower or~~
30 ~~enhance the efficiency of plant operations; or, (2)~~
31 ~~commission-approved operating costs for particular utility-owned~~
32 ~~powerplant units and at particular times when reactive~~
33 ~~power/voltage support is not yet procurable at market-based rates~~
34 ~~in locations where it is needed, provided that the recovery shall~~
35 ~~end on December 31, 2001.~~

36 *SEC. 42. Section 390.1 of the Public Utilities Code is repealed.*

37 ~~390.1. Any nonutility power generator using renewable fuels~~
38 ~~that has entered into a contract with an electrical corporation prior~~
39 ~~to December 31, 2001, specifying fixed energy prices for five years~~
40 ~~of output may negotiate a contract for an additional five years of~~

1 ~~fixed energy payments upon expiration of the initial five-year term,~~
2 ~~at a price to be determined by the commission.~~

3 *SEC. 43. Section 394.5 of the Public Utilities Code is amended*
4 *to read:*

5 394.5. (a) Except for an electrical corporation as defined in
6 Section 218, or a local publicly owned electric utility offering
7 electrical service to residential and small commercial customers
8 within its service territory, each electric service provider offering
9 electrical service to residential and small commercial customers
10 shall, prior to the commencement of service, provide the potential
11 customer with a written notice of the service describing the price,
12 terms, and conditions of the service. A notice shall include all of
13 the following:

14 (1) A clear description of the price, terms, and conditions of
15 service, including:

16 (A) The price of electricity expressed in a format that makes it
17 possible for residential and small commercial customers to compare
18 and select among similar products and services on a standard basis.
19 The commission shall adopt rules to implement this subdivision.
20 The commission shall require disclosure of the total price of
21 electricity on a cents-per-kilowatthour basis, including the costs
22 of all electric services and charges regulated by the commission.
23 The commission shall also require estimates of the total monthly
24 bill for the electric service at varying consumption levels, including
25 the costs of all electric services and charges regulated by the
26 commission. In determining these rules, the commission may
27 consider alternatives to the cents-per-kilowatthour disclosure if
28 other information would provide the customer with sufficient
29 information to compare among alternatives on a standard basis.

30 (B) Separate disclosure of all recurring and nonrecurring charges
31 associated with the sale of electricity.

32 (C) If services other than electricity are offered, an itemization
33 of the services and the charge or charges associated with each.

34 (2) An explanation of the applicability and amount of the
35 ~~competition transition charge, as determined pursuant to Sections~~
36 ~~367 to 376, inclusive. charges.~~

37 (3) A description of the potential customer's right to rescind
38 the contract without fee or penalty as described in Section 395.

1 (4) An explanation of the customer’s financial obligations, as
2 well as the procedures regarding past due payments, discontinuance
3 of service, billing disputes, and service complaints.

4 (5) The electric service provider’s registration number, if
5 applicable.

6 (6) The right to change service providers upon written notice,
7 including disclosure of any fees or penalties assessed by the
8 supplier for early termination of a contract.

9 (7) A description of the availability of low-income assistance
10 programs for qualified customers and how customers can apply
11 for these programs.

12 (b) The commission may assist electric service providers in
13 developing the notice. The commission may suggest inclusion of
14 additional information it deems necessary for the consumer
15 protection purposes of this section. On at least a semiannual basis,
16 electric service providers shall provide the commission with a copy
17 of the form of notice included in standard service plans made
18 available to residential and small commercial customers.

19 (c) An electric service provider offering electric services who
20 declines to provide those services to a consumer shall, upon request
21 of the consumer, disclose to that consumer the reason for the denial
22 in writing within 30 days. At the time service is denied, the electric
23 service provider shall disclose to the consumer the right to make
24 this request. A consumer shall have at least 30 days from the date
25 service is denied to make the request.

26 *SEC. 44. Section 395 of the Public Utilities Code is amended*
27 *to read:*

28 395. (a) In addition to any other right to revoke an offer,
29 residential and small commercial customers of electrical service,
30 as defined in subdivision ~~(h)~~ (g) of Section 331, have the right to
31 cancel a contract for electric service until midnight of the third
32 business day after the day on which the buyer signs an agreement
33 or offer to purchase.

34 (b) Cancellation occurs when the buyer gives written notice of
35 cancellation to the seller at the address specified in the agreement
36 or offer.

37 (c) Notice of cancellation, if given by mail, is effective when
38 deposited in the mail properly addressed with postage prepaid.

39 (d) Notice of cancellation given by the buyer need not take the
40 particular form as provided with the contract or offer to purchase

1 and, however expressed, is effective if it indicates the intention of
2 the buyer not to be bound by the contract.

3 *SEC. 45. Section 397 of the Public Utilities Code is repealed.*

4 ~~397. (a) Notwithstanding subdivision (a) of Section 368, to~~
5 ~~ensure the continued safe and reliable provision of electric service~~
6 ~~during the transition to competition, and to limit the effect of fuel~~
7 ~~price volatility in electric rates paid by California consumers, it is~~
8 ~~in the public interest to allow an electrical corporation which is~~
9 ~~also a gas corporation and served fewer than four million customers~~
10 ~~as of December 20, 1995, to file with the commission a rate cap~~
11 ~~mechanism which shall include a Fuel Price Index Mechanism~~
12 ~~requiring limited adjustments in an electrical corporation's~~
13 ~~authorized System Average Rate in effect on June 10, 1996, to~~
14 ~~reflect price changes in the fuel market. The commission shall~~
15 ~~authorize an electrical corporation to implement a rate cap~~
16 ~~mechanism which includes a Fuel Price Index Mechanism provided~~
17 ~~the following criteria are met:~~

18 ~~(1) The Fuel Price Index Mechanism shall be based on the~~
19 ~~Southern California Border Index price for natural gas as published~~
20 ~~periodically in Natural Gas Intelligence Magazine. The "Starting~~
21 ~~Point" of the Fuel Price Index Mechanism shall be defined as the~~
22 ~~California Border Index price as published in Natural Gas~~
23 ~~Intelligence for January 1, 1996.~~

24 ~~(2) The Fuel Price Index Mechanism shall include a "deadband"~~
25 ~~defined as a price range for natural gas that is any price up to 10~~
26 ~~percent higher, or lower, than the Starting Point.~~

27 ~~(3) The electrical corporation shall not file for a change in its~~
28 ~~authorized System Average Rate unless the California Border~~
29 ~~Index price, on a 12-month, rolling average basis, is outside the~~
30 ~~deadband. If the published California Border Index is outside of~~
31 ~~the deadband, the electrical corporation shall increase, or decrease,~~
32 ~~its authorized System Average Rate by an amount equal to the~~
33 ~~product of 25 percent multiplied by the percentage by which the~~
34 ~~12-month rolling average natural gas price is higher, or lower, than~~
35 ~~the deadband.~~

36 ~~(4) In no case shall an electrical corporation's authorized System~~
37 ~~Average Rate under the Fuel Price Index Mechanism exceed the~~
38 ~~average of the authorized system average rates for the two largest~~
39 ~~electrical corporations as of June 10, 1996.~~

1 ~~(5) This section shall become inoperative on December 31,~~
2 ~~2001.~~

3 *SEC. 46. Section 399.2 of the Public Utilities Code is amended*
4 *to read:*

5 399.2. (a) (1) It is the policy of this state, and the intent of the
6 Legislature, to reaffirm that each electrical corporation shall
7 continue to operate its electric distribution grid in its service
8 territory and shall do so in a safe, reliable, efficient, and
9 cost-effective manner.

10 (2) In furtherance of this policy, it is the intent of the Legislature
11 that each electrical corporation shall continue to be responsible
12 for operating its own electric distribution grid including, but not
13 limited to, owning, controlling, operating, managing, maintaining,
14 planning, engineering, designing, and constructing its own electric
15 distribution grid, emergency response and restoration, service
16 connections, service turnons and turnoffs, and service inquiries
17 relating to the operation of its electric distribution grid, subject to
18 the commission's authority.

19 (b) In order to ensure the continued efficient use, and
20 cost-effective, safe, and reliable operation of the electric
21 distribution grid, each electrical corporation shall continue to
22 operate its electric distribution grid in its service territory consistent
23 with ~~Section 330.~~ *territory.*

24 (c) In carrying out the purposes of this section, each electrical
25 corporation shall continue to make reasonable investments in its
26 electric distribution grid. Each electrical corporation shall continue
27 to have a reasonable opportunity to fully recover from all customers
28 of the electrical corporation, in a manner determined by the
29 commission pursuant to this code, all of the following:

30 (1) Reasonable investments in its electric distribution grid.

31 (2) A reasonable return on the investments in its electric
32 distribution grid.

33 (3) Reasonable costs to operate its electric distribution grid.

34 (d) For purposes of this section, the term "electric distribution
35 grid" means those facilities owned or operated by an electrical
36 corporation that are not under the control of the Independent
37 System Operator and that are used to transmit, deliver, or furnish
38 electricity for light, heat, or power.

39 (e) Nothing in this section shall be construed to alter or to affect
40 any of the following:

1 (1) Section 216, 218, or 2827.

2 (2) The authority of the commission to establish and enforce
3 standards and tariff conditions for the interconnection of
4 customer-owned facilities to the electric distribution grid.

5 (3) The ratemaking authority of the commission under this code.

6 (4) The authority of the commission to establish rules governing
7 the extension of service to new customers.

8 (f) Nothing in this section shall be construed to alter or affect
9 any authority or lack of authority of the commission regarding the
10 ownership and operation of new electric generation used in whole,
11 or in part, for the purpose of maintaining or enhancing the
12 reliability of the electric distribution grid.

13 (g) Nothing in this section diminishes or expands any existing
14 authority of a local governmental entity.

15 (h) The commission shall require every electrical corporation
16 operating an electric distribution grid to inform all customers who
17 request residential service connections via telephone of the
18 availability of the California Alternative Rates for Energy (CARE)
19 program and how they may qualify for and obtain these services
20 and shall accept applications for the CARE program according to
21 procedures specified by the commission. Electrical corporations
22 shall recover the reasonable costs of implementing this subdivision.

23 *SEC. 47. Article 5.5 (commencing with Section 840) of Chapter*
24 *4 of Part 1 of Division 1 of the Public Utilities Code is repealed.*

25 *SEC. 48. Section 2827 of the Public Utilities Code is amended*
26 *to read:*

27 2827. (a) The Legislature finds and declares that a program
28 to provide net energy metering combined with net surplus
29 compensation, co-energy metering, and wind energy co-metering
30 for eligible customer-generators is one way to encourage substantial
31 private investment in renewable energy resources, stimulate in-state
32 economic growth, reduce demand for electricity during peak
33 consumption periods, help stabilize California's energy supply
34 infrastructure, enhance the continued diversification of California's
35 energy resource mix, reduce interconnection and administrative
36 costs for electricity suppliers, and encourage conservation and
37 efficiency.

38 (b) As used in this section, the following terms have the
39 following meanings:

1 (1) “Co-energy metering” means a program that is the same in
2 all other respects as a net energy metering program, except that
3 the local publicly owned electric utility has elected to apply a
4 generation-to-generation energy and time-of-use credit formula
5 as provided in subdivision (i).

6 (2) “Electrical cooperative” means an electrical cooperative as
7 defined in Section 2776.

8 (3) “Electric utility” means an electrical corporation, a local
9 publicly owned electric utility, or an electrical cooperative, or any
10 other entity, except an electric service provider, that offers electrical
11 service. This section shall not apply to a local publicly owned
12 electric utility that serves more than 750,000 customers and that
13 also conveys water to its customers.

14 (4) (A) “Eligible customer-generator” means a residential
15 customer, small commercial customer as defined in subdivision
16 ~~(h)~~ (f) of Section 331, or commercial, industrial, or agricultural
17 customer of an electric utility, who uses a renewable electrical
18 generation facility, or a combination of those facilities, with a total
19 capacity of not more than one megawatt, that is located on the
20 customer’s owned, leased, or rented premises, and is interconnected
21 and operates in parallel with the electrical grid, and is intended
22 primarily to offset part or all of the customer’s own electrical
23 requirements.

24 (B) (i) Notwithstanding subparagraph (A), “eligible
25 customer-generator” includes the Department of Corrections and
26 Rehabilitation using a renewable electrical generation technology,
27 or a combination of renewable electrical generation technologies,
28 with a total capacity of not more than eight megawatts, that is
29 located on the department’s owned, leased, or rented premises,
30 and is interconnected and operates in parallel with the electrical
31 grid, and is intended primarily to offset part or all of the facility’s
32 own electrical requirements. The amount of any wind generation
33 exported to the electrical grid shall not exceed 1.35 megawatt at
34 any time.

35 (ii) Notwithstanding any other law, an electrical corporation
36 shall be afforded a prudent but necessary time, as determined by
37 the executive director of the commission, to study the impacts of
38 a request for interconnection of a renewable generator with a
39 capacity of greater than one megawatt under this subparagraph. If
40 the study reveals the need for upgrades to the transmission or

1 distribution system arising solely from the interconnection, the
2 electrical corporation shall be afforded the time necessary to
3 complete those upgrades before the interconnection and those costs
4 shall be borne by the customer-generator. Upgrade projects shall
5 comply with applicable state and federal requirements, including
6 requirements of the Federal Energy Regulatory Commission.

7 (5) “Large electrical corporation” means an electrical
8 corporation with more than 100,000 service connections in
9 California.

10 (6) “Net energy metering” means measuring the difference
11 between the electricity supplied through the electrical grid and the
12 electricity generated by an eligible customer-generator and fed
13 back to the electrical grid over a 12-month period as described in
14 subdivisions (c) and (h).

15 (7) “Net surplus customer-generator” means an eligible
16 customer-generator that generates more electricity during a
17 12-month period than is supplied by the electric utility to the
18 eligible customer-generator during the same 12-month period.

19 (8) “Net surplus electricity” means all electricity generated by
20 an eligible customer-generator measured in kilowatthours over a
21 12-month period that exceeds the amount of electricity consumed
22 by that eligible customer-generator.

23 (9) “Net surplus electricity compensation” means a per
24 kilowatthour rate offered by the electric utility to the net surplus
25 customer-generator for net surplus electricity that is set by the
26 ratemaking authority pursuant to subdivision (h).

27 (10) “Ratemaking authority” means, for an electrical
28 corporation, the commission, for an electrical cooperative, its
29 ratesetting body selected by its shareholders or members, and for
30 a local publicly owned electric utility, the local elected body
31 responsible for setting the rates of the local publicly owned utility.

32 (11) “Renewable electrical generation facility” means a facility
33 that generates electricity from a renewable source listed in
34 paragraph (1) of subdivision (a) of Section 25741 of the Public
35 Resources Code. A small hydroelectric generation facility is not
36 an eligible renewable electrical generation facility if it will cause
37 an adverse impact on instream beneficial uses or cause a change
38 in the volume or timing of streamflow.

39 (12) “Wind energy co-metering” means any wind energy project
40 greater than 50 kilowatts, but not exceeding one megawatt, where

1 the difference between the electricity supplied through the electrical
2 grid and the electricity generated by an eligible customer-generator
3 and fed back to the electrical grid over a 12-month period is as
4 described in subdivision (h). Wind energy co-metering shall be
5 accomplished pursuant to Section 2827.8.

6 (c) (1) Except as provided in paragraph (4) and in Section
7 2827.1, every electric utility shall develop a standard contract or
8 tariff providing for net energy metering, and shall make this
9 standard contract or tariff available to eligible customer-generators,
10 upon request, on a first-come-first-served basis until the time that
11 the total rated generating capacity used by eligible
12 customer-generators exceeds 5 percent of the electric utility's
13 aggregate customer peak demand. Net energy metering shall be
14 accomplished using a single meter capable of registering the flow
15 of electricity in two directions. An additional meter or meters to
16 monitor the flow of electricity in each direction may be installed
17 with the consent of the eligible customer-generator, at the expense
18 of the electric utility, and the additional metering shall be used
19 only to provide the information necessary to accurately bill or
20 credit the eligible customer-generator pursuant to subdivision (h),
21 or to collect generating system performance information for
22 research purposes relative to a renewable electrical generation
23 facility. If the existing electrical meter of an eligible
24 customer-generator is not capable of measuring the flow of
25 electricity in two directions, the eligible customer-generator shall
26 be responsible for all expenses involved in purchasing and
27 installing a meter that is able to measure electricity flow in two
28 directions. If an additional meter or meters are installed, the net
29 energy metering calculation shall yield a result identical to that of
30 a single meter. An eligible customer-generator that is receiving
31 service other than through the standard contract or tariff may elect
32 to receive service through the standard contract or tariff until the
33 electric utility reaches the generation limit set forth in this
34 paragraph. Once the generation limit is reached, only eligible
35 customer-generators that had previously elected to receive service
36 pursuant to the standard contract or tariff have a right to continue
37 to receive service pursuant to the standard contract or tariff.
38 Eligibility for net energy metering does not limit an eligible
39 customer-generator's eligibility for any other rebate, incentive, or
40 credit provided by the electric utility, or pursuant to any

1 governmental program, including rebates and incentives provided
2 pursuant to the California Solar Initiative.

3 (2) An electrical corporation shall include a provision in the net
4 energy metering contract or tariff requiring that any customer with
5 an existing electrical generating facility and meter who enters into
6 a new net energy metering contract shall provide an inspection
7 report to the electrical corporation, unless the electrical generating
8 facility and meter have been installed or inspected within the
9 previous three years. The inspection report shall be prepared by a
10 California licensed contractor who is not the owner or operator of
11 the facility and meter. A California licensed electrician shall
12 perform the inspection of the electrical portion of the facility and
13 meter.

14 (3) (A) On an annual basis, every electric utility shall make
15 available to the ratemaking authority information on the total rated
16 generating capacity used by eligible customer-generators that are
17 customers of that provider in the provider's service area and the
18 net surplus electricity purchased by the electric utility pursuant to
19 this section.

20 (B) An electric service provider operating pursuant to Section
21 394 shall make available to the ratemaking authority the
22 information required by this paragraph for each eligible
23 customer-generator that is their customer for each service area of
24 an electrical corporation, local publicly owned electrical utility,
25 or electrical cooperative, in which the eligible customer-generator
26 has net energy metering.

27 (C) The ratemaking authority shall develop a process for making
28 the information required by this paragraph available to electric
29 utilities, and for using that information to determine when, pursuant
30 to paragraphs (1) and (4), an electric utility is not obligated to
31 provide net energy metering to additional eligible
32 customer-generators in its service area.

33 (4) (A) An electric utility that is not a large electrical
34 corporation is not obligated to provide net energy metering to
35 additional eligible customer-generators in its service area when
36 the combined total peak demand of all electricity used by eligible
37 customer-generators served by all the electric utilities in that
38 service area furnishing net energy metering to eligible
39 customer-generators exceeds 5 percent of the aggregate customer
40 peak demand of those electric utilities.

1 (B) The commission shall require every large electrical
2 corporation to make the standard contract or tariff available to
3 eligible customer-generators, continuously and without
4 interruption, until such times as the large electrical corporation
5 reaches its net energy metering program limit or July 1, 2017,
6 whichever is earlier. A large electrical corporation reaches its
7 program limit when the combined total peak demand of all
8 electricity used by eligible customer-generators served by all the
9 electric utilities in the large electrical corporation's service area
10 furnishing net energy metering to eligible customer-generators
11 exceeds 5 percent of the aggregate customer peak demand of those
12 electric utilities. For purposes of calculating a large electrical
13 corporation's program limit, "aggregate customer peak demand"
14 means the highest sum of the noncoincident peak demands of all
15 of the large electrical corporation's customers that occurs in any
16 calendar year. To determine the aggregate customer peak demand,
17 every large electrical corporation shall use a uniform method
18 approved by the commission. The program limit calculated
19 pursuant to this paragraph shall not be less than the following:

20 (i) For San Diego Gas and Electric Company, when it has made
21 607 megawatts of nameplate generating capacity available to
22 eligible customer-generators.

23 (ii) For Southern California Edison Company, when it has made
24 2,240 megawatts of nameplate generating capacity available to
25 eligible customer-generators.

26 (iii) For Pacific Gas and Electric Company, when it has made
27 2,409 megawatts of nameplate generating capacity available to
28 eligible customer-generators.

29 (C) Every large electrical corporation shall file a monthly report
30 with the commission detailing the progress toward the net energy
31 metering program limit established in subparagraph (B). The report
32 shall include separate calculations on progress toward the limits
33 based on operating solar energy systems, cumulative numbers of
34 interconnection requests for net energy metering eligible systems,
35 and any other criteria required by the commission.

36 (D) Beginning July 1, 2017, or upon reaching the net metering
37 program limit of subparagraph (B), whichever is earlier, the
38 obligation of a large electrical corporation to provide service
39 pursuant to a standard contract or tariff shall be pursuant to Section
40 2827.1 and applicable state and federal requirements.

1 (d) Every electric utility shall make all necessary forms and
2 contracts for net energy metering and net surplus electricity
3 compensation service available for download from the Internet.

4 (e) (1) Every electric utility shall ensure that requests for
5 establishment of net energy metering and net surplus electricity
6 compensation are processed in a time period not exceeding that
7 for similarly situated customers requesting new electric service,
8 but not to exceed 30 working days from the date it receives a
9 completed application form for net energy metering service or net
10 surplus electricity compensation, including a signed interconnection
11 agreement from an eligible customer-generator and the electric
12 inspection clearance from the governmental authority having
13 jurisdiction.

14 (2) Every electric utility shall ensure that requests for an
15 interconnection agreement from an eligible customer-generator
16 are processed in a time period not to exceed 30 working days from
17 the date it receives a completed application form from the eligible
18 customer-generator for an interconnection agreement.

19 (3) If an electric utility is unable to process a request within the
20 allowable timeframe pursuant to paragraph (1) or (2), it shall notify
21 the eligible customer-generator and the ratemaking authority of
22 the reason for its inability to process the request and the expected
23 completion date.

24 (f) (1) If a customer participates in direct transactions pursuant
25 to paragraph (1) of subdivision (b) of Section 365, or Section 365.1,
26 with an electric service provider that does not provide distribution
27 service for the direct transactions, the electric utility that provides
28 distribution service for the eligible customer-generator is not
29 obligated to provide net energy metering or net surplus electricity
30 compensation to the customer.

31 (2) If a customer participates in direct transactions pursuant to
32 paragraph (1) of subdivision (b) of Section 365 or 365.1 with an
33 electric service provider, and the customer is an eligible
34 customer-generator, the electric utility that provides distribution
35 service for the direct transactions may recover from the customer's
36 electric service provider the incremental costs of metering and
37 billing service related to net energy metering and net surplus
38 electricity compensation in an amount set by the ratemaking
39 authority.

1 (g) Except for the time-variant kilowatthour pricing portion of
2 any tariff adopted by the commission pursuant to paragraph (4) of
3 subdivision (a) of Section 2851, each net energy metering contract
4 or tariff shall be identical, with respect to rate structure, all retail
5 rate components, and any monthly charges, to the contract or tariff
6 to which the same customer would be assigned if the customer did
7 not use a renewable electrical generation facility, except that
8 eligible customer-generators shall not be assessed standby charges
9 on the electrical generating capacity or the kilowatthour production
10 of a renewable electrical generation facility. The charges for all
11 retail rate components for eligible customer-generators shall be
12 based exclusively on the customer-generator's net kilowatthour
13 consumption over a 12-month period, without regard to the eligible
14 customer-generator's choice as to from whom it purchases
15 electricity that is not self-generated. Any new or additional demand
16 charge, standby charge, customer charge, minimum monthly
17 charge, interconnection charge, or any other charge that would
18 increase an eligible customer-generator's costs beyond those of
19 other customers who are not eligible customer-generators in the
20 rate class to which the eligible customer-generator would otherwise
21 be assigned if the customer did not own, lease, rent, or otherwise
22 operate a renewable electrical generation facility is contrary to the
23 intent of this section, and shall not form a part of net energy
24 metering contracts or tariffs.

25 (h) For eligible customer-generators, the net energy metering
26 calculation shall be made by measuring the difference between
27 the electricity supplied to the eligible customer-generator and the
28 electricity generated by the eligible customer-generator and fed
29 back to the electrical grid over a 12-month period. The following
30 rules shall apply to the annualized net metering calculation:

31 (1) The eligible residential or small commercial
32 customer-generator, at the end of each 12-month period following
33 the date of final interconnection of the eligible
34 customer-generator's system with an electric utility, and at each
35 anniversary date thereafter, shall be billed for electricity used
36 during that 12-month period. The electric utility shall determine
37 if the eligible residential or small commercial customer-generator
38 was a net consumer or a net surplus customer-generator during
39 that period.

1 (2) At the end of each 12-month period, where the electricity
2 supplied during the period by the electric utility exceeds the
3 electricity generated by the eligible residential or small commercial
4 customer-generator during that same period, the eligible residential
5 or small commercial customer-generator is a net electricity
6 consumer and the electric utility shall be owed compensation for
7 the eligible customer-generator's net kilowatthour consumption
8 over that 12-month period. The compensation owed for the eligible
9 residential or small commercial customer-generator's consumption
10 shall be calculated as follows:

11 (A) For all eligible customer-generators taking service under
12 contracts or tariffs employing "baseline" and "over baseline" rates,
13 any net monthly consumption of electricity shall be calculated
14 according to the terms of the contract or tariff to which the same
15 customer would be assigned to, or be eligible for, if the customer
16 was not an eligible customer-generator. If those same
17 customer-generators are net generators over a billing period, the
18 net kilowatthours generated shall be valued at the same price per
19 kilowatthour as the electric utility would charge for the baseline
20 quantity of electricity during that billing period, and if the number
21 of kilowatthours generated exceeds the baseline quantity, the excess
22 shall be valued at the same price per kilowatthour as the electric
23 utility would charge for electricity over the baseline quantity during
24 that billing period.

25 (B) For all eligible customer-generators taking service under
26 contracts or tariffs employing time-of-use rates, any net monthly
27 consumption of electricity shall be calculated according to the
28 terms of the contract or tariff to which the same customer would
29 be assigned, or be eligible for, if the customer was not an eligible
30 customer-generator. When those same customer-generators are
31 net generators during any discrete time-of-use period, the net
32 kilowatthours produced shall be valued at the same price per
33 kilowatthour as the electric utility would charge for retail
34 kilowatthour sales during that same time-of-use period. If the
35 eligible customer-generator's time-of-use electrical meter is unable
36 to measure the flow of electricity in two directions, paragraph (1)
37 of subdivision (c) shall apply.

38 (C) For all eligible residential and small commercial
39 customer-generators and for each billing period, the net balance
40 of moneys owed to the electric utility for net consumption of

1 electricity or credits owed to the eligible customer-generator for
2 net generation of electricity shall be carried forward as a monetary
3 value until the end of each 12-month period. For all eligible
4 commercial, industrial, and agricultural customer-generators, the
5 net balance of moneys owed shall be paid in accordance with the
6 electric utility's normal billing cycle, except that if the eligible
7 commercial, industrial, or agricultural customer-generator is a net
8 electricity producer over a normal billing cycle, any excess
9 kilowatthours generated during the billing cycle shall be carried
10 over to the following billing period as a monetary value, calculated
11 according to the procedures set forth in this section, and appear as
12 a credit on the eligible commercial, industrial, or agricultural
13 customer-generator's account, until the end of the annual period
14 when paragraph (3) shall apply.

15 (3) At the end of each 12-month period, where the electricity
16 generated by the eligible customer-generator during the 12-month
17 period exceeds the electricity supplied by the electric utility during
18 that same period, the eligible customer-generator is a net surplus
19 customer-generator and the electric utility, upon an affirmative
20 election by the net surplus customer-generator, shall either (A)
21 provide net surplus electricity compensation for any net surplus
22 electricity generated during the prior 12-month period, or (B) allow
23 the net surplus customer-generator to apply the net surplus
24 electricity as a credit for kilowatthours subsequently supplied by
25 the electric utility to the net surplus customer-generator. For an
26 eligible customer-generator that does not affirmatively elect to
27 receive service pursuant to net surplus electricity compensation,
28 the electric utility shall retain any excess kilowatthours generated
29 during the prior 12-month period. The eligible customer-generator
30 not affirmatively electing to receive service pursuant to net surplus
31 electricity compensation shall not be owed any compensation for
32 the net surplus electricity unless the electric utility enters into a
33 purchase agreement with the eligible customer-generator for those
34 excess kilowatthours. Every electric utility shall provide notice to
35 eligible customer-generators that they are eligible to receive net
36 surplus electricity compensation for net surplus electricity, that
37 they must elect to receive net surplus electricity compensation,
38 and that the 12-month period commences when the electric utility
39 receives the eligible customer-generator's election. For an electric
40 utility that is an electrical corporation or electrical cooperative,

1 the commission may adopt requirements for providing notice and
2 the manner by which eligible customer-generators may elect to
3 receive net surplus electricity compensation.

4 (4) (A) An eligible customer-generator with multiple meters
5 may elect to aggregate the electrical load of the meters located on
6 the property where the renewable electrical generation facility is
7 located and on all property adjacent or contiguous to the property
8 on which the renewable electrical generation facility is located, if
9 those properties are solely owned, leased, or rented by the eligible
10 customer-generator. If the eligible customer-generator elects to
11 aggregate the electric load pursuant to this paragraph, the electric
12 utility shall use the aggregated load for the purpose of determining
13 whether an eligible customer-generator is a net consumer or a net
14 surplus customer-generator during a 12-month period.

15 (B) If an eligible customer-generator chooses to aggregate
16 pursuant to subparagraph (A), the eligible customer-generator shall
17 be permanently ineligible to receive net surplus electricity
18 compensation, and the electric utility shall retain any kilowatthours
19 in excess of the eligible customer-generator's aggregated electrical
20 load generated during the 12-month period.

21 (C) If an eligible customer-generator with multiple meters elects
22 to aggregate the electrical load of those meters pursuant to
23 subparagraph (A), and different rate schedules are applicable to
24 service at any of those meters, the electricity generated by the
25 renewable electrical generation facility shall be allocated to each
26 of the meters in proportion to the electrical load served by those
27 meters. For example, if the eligible customer-generator receives
28 electric service through three meters, two meters being at an
29 agricultural rate that each provide service to 25 percent of the
30 customer's total load, and a third meter, at a commercial rate, that
31 provides service to 50 percent of the customer's total load, then
32 50 percent of the electrical generation of the eligible renewable
33 generation facility shall be allocated to the third meter that provides
34 service at the commercial rate and 25 percent of the generation
35 shall be allocated to each of the two meters providing service at
36 the agricultural rate. This proportionate allocation shall be
37 computed each billing period.

38 (D) This paragraph shall not become operative for an electrical
39 corporation unless the commission determines that allowing
40 eligible customer-generators to aggregate their load from multiple

1 meters will not result in an increase in the expected revenue
2 obligations of customers who are not eligible customer-generators.
3 The commission shall make this determination by September 30,
4 2013. In making this determination, the commission shall determine
5 if there are any public purpose or other noncommodity charges
6 that the eligible customer-generators would pay pursuant to the
7 net energy metering program as it exists prior to aggregation, that
8 the eligible customer-generator would not pay if permitted to
9 aggregate the electrical load of multiple meters pursuant to this
10 paragraph.

11 (E) A local publicly owned electric utility or electrical
12 cooperative shall only allow eligible customer-generators to
13 aggregate their load if the utility's ratemaking authority determines
14 that allowing eligible customer-generators to aggregate their load
15 from multiple meters will not result in an increase in the expected
16 revenue obligations of customers that are not eligible
17 customer-generators. The ratemaking authority of a local publicly
18 owned electric utility or electrical cooperative shall make this
19 determination within 180 days of the first request made by an
20 eligible customer-generator to aggregate their load. In making the
21 determination, the ratemaking authority shall determine if there
22 are any public purpose or other noncommodity charges that the
23 eligible customer-generator would pay pursuant to the net energy
24 metering or co-energy metering program of the utility as it exists
25 prior to aggregation, that the eligible customer-generator would
26 not pay if permitted to aggregate the electrical load of multiple
27 meters pursuant to this paragraph. If the ratemaking authority
28 determines that load aggregation will not cause an incremental
29 rate impact on the utility's customers that are not eligible
30 customer-generators, the local publicly owned electric utility or
31 electrical cooperative shall permit an eligible customer-generator
32 to elect to aggregate the electrical load of multiple meters pursuant
33 to this paragraph. The ratemaking authority may reconsider any
34 determination made pursuant to this subparagraph in a subsequent
35 public proceeding.

36 (F) For purposes of this paragraph, parcels that are divided by
37 a street, highway, or public thoroughfare are considered contiguous,
38 provided they are otherwise contiguous and under the same
39 ownership.

1 (G) An eligible customer-generator may only elect to aggregate
2 the electrical load of multiple meters if the renewable electrical
3 generation facility, or a combination of those facilities, has a total
4 generating capacity of not more than one megawatt.

5 (H) Notwithstanding subdivision (g), an eligible
6 customer-generator electing to aggregate the electrical load of
7 multiple meters pursuant to this subdivision shall remit service
8 charges for the cost of providing billing services to the electric
9 utility that provides service to the meters.

10 (5) (A) The ratemaking authority shall establish a net surplus
11 electricity compensation valuation to compensate the net surplus
12 customer-generator for the value of net surplus electricity generated
13 by the net surplus customer-generator. The commission shall
14 establish the valuation in a ratemaking proceeding. The ratemaking
15 authority for a local publicly owned electric utility shall establish
16 the valuation in a public proceeding. The net surplus electricity
17 compensation valuation shall be established so as to provide the
18 net surplus customer-generator just and reasonable compensation
19 for the value of net surplus electricity, while leaving other
20 ratepayers unaffected. The ratemaking authority shall determine
21 whether the compensation will include, where appropriate
22 justification exists, either or both of the following components:

23 (i) The value of the electricity itself.

24 (ii) The value of the renewable attributes of the electricity.

25 (B) In establishing the rate pursuant to subparagraph (A), the
26 ratemaking authority shall ensure that the rate does not result in a
27 shifting of costs between eligible customer-generators and other
28 bundled service customers.

29 (6) (A) Upon adoption of the net surplus electricity
30 compensation rate by the ratemaking authority, any renewable
31 energy credit, as defined in Section 399.12, for net surplus
32 electricity purchased by the electric utility shall belong to the
33 electric utility. Any renewable energy credit associated with
34 electricity generated by the eligible customer-generator that is
35 utilized by the eligible customer-generator shall remain the property
36 of the eligible customer-generator.

37 (B) Upon adoption of the net surplus electricity compensation
38 rate by the ratemaking authority, the net surplus electricity
39 purchased by the electric utility shall count toward the electric
40 utility's renewables portfolio standard annual procurement targets

1 for the purposes of paragraph (1) of subdivision (b) of Section
2 399.15, or for a local publicly owned electric utility, the renewables
3 portfolio standard annual procurement targets established pursuant
4 to Section 399.30.

5 (7) The electric utility shall provide every eligible residential
6 or small commercial customer-generator with net electricity
7 consumption and net surplus electricity generation information
8 with each regular bill. That information shall include the current
9 monetary balance owed the electric utility for net electricity
10 consumed, or the net surplus electricity generated, since the last
11 12-month period ended. Notwithstanding this subdivision, an
12 electric utility shall permit that customer to pay monthly for net
13 energy consumed.

14 (8) If an eligible residential or small commercial
15 customer-generator terminates the customer relationship with the
16 electric utility, the electric utility shall reconcile the eligible
17 customer-generator's consumption and production of electricity
18 during any part of a 12-month period following the last
19 reconciliation, according to the requirements set forth in this
20 subdivision, except that those requirements shall apply only to the
21 months since the most recent 12-month bill.

22 (9) If an electric service provider or electric utility providing
23 net energy metering to a residential or small commercial
24 customer-generator ceases providing that electric service to that
25 customer during any 12-month period, and the customer-generator
26 enters into a new net energy metering contract or tariff with a new
27 electric service provider or electric utility, the 12-month period,
28 with respect to that new electric service provider or electric utility,
29 shall commence on the date on which the new electric service
30 provider or electric utility first supplies electric service to the
31 customer-generator.

32 (i) Notwithstanding any other provisions of this section,
33 paragraphs (1), (2), and (3) shall apply to an eligible
34 customer-generator with a capacity of more than 10 kilowatts, but
35 not exceeding one megawatt, that receives electric service from a
36 local publicly owned electric utility that has elected to utilize a
37 co-energy metering program unless the local publicly owned
38 electric utility chooses to provide service for eligible
39 customer-generators with a capacity of more than 10 kilowatts in
40 accordance with subdivisions (g) and (h):

1 (1) The eligible customer-generator shall be required to utilize
2 a meter, or multiple meters, capable of separately measuring
3 electricity flow in both directions. All meters shall provide
4 time-of-use measurements of electricity flow, and the customer
5 shall take service on a time-of-use rate schedule. If the existing
6 meter of the eligible customer-generator is not a time-of-use meter
7 or is not capable of measuring total flow of electricity in both
8 directions, the eligible customer-generator shall be responsible for
9 all expenses involved in purchasing and installing a meter that is
10 both time-of-use and able to measure total electricity flow in both
11 directions. This subdivision shall not restrict the ability of an
12 eligible customer-generator to utilize any economic incentives
13 provided by a governmental agency or an electric utility to reduce
14 its costs for purchasing and installing a time-of-use meter.

15 (2) The consumption of electricity from the local publicly owned
16 electric utility shall result in a cost to the eligible
17 customer-generator to be priced in accordance with the standard
18 rate charged to the eligible customer-generator in accordance with
19 the rate structure to which the customer would be assigned if the
20 customer did not use a renewable electrical generation facility.
21 The generation of electricity provided to the local publicly owned
22 electric utility shall result in a credit to the eligible
23 customer-generator and shall be priced in accordance with the
24 generation component, established under the applicable structure
25 to which the customer would be assigned if the customer did not
26 use a renewable electrical generation facility.

27 (3) All costs and credits shall be shown on the eligible
28 customer-generator's bill for each billing period. In any months
29 in which the eligible customer-generator has been a net consumer
30 of electricity calculated on the basis of value determined pursuant
31 to paragraph (2), the customer-generator shall owe to the local
32 publicly owned electric utility the balance of electricity costs and
33 credits during that billing period. In any billing period in which
34 the eligible customer-generator has been a net producer of
35 electricity calculated on the basis of value determined pursuant to
36 paragraph (2), the local publicly owned electric utility shall owe
37 to the eligible customer-generator the balance of electricity costs
38 and credits during that billing period. Any net credit to the eligible
39 customer-generator of electricity costs may be carried forward to
40 subsequent billing periods, provided that a local publicly owned

1 electric utility may choose to carry the credit over as a kilowatt-hour
2 credit consistent with the provisions of any applicable contract or
3 tariff, including any differences attributable to the time of
4 generation of the electricity. At the end of each 12-month period,
5 the local publicly owned electric utility may reduce any net credit
6 due to the eligible customer-generator to zero.

7 (j) A renewable electrical generation facility used by an eligible
8 customer-generator shall meet all applicable safety and
9 performance standards established by the National Electrical Code,
10 the Institute of Electrical and Electronics Engineers, and accredited
11 testing laboratories, including Underwriters Laboratories
12 Incorporated and, where applicable, rules of the commission
13 regarding safety and reliability. A customer-generator whose
14 renewable electrical generation facility meets those standards and
15 rules shall not be required to install additional controls, perform
16 or pay for additional tests, or purchase additional liability
17 insurance.

18 (k) If the commission determines that there are cost or revenue
19 obligations for an electrical corporation that may not be recovered
20 from customer-generators acting pursuant to this section, those
21 obligations shall remain within the customer class from which any
22 shortfall occurred and shall not be shifted to any other customer
23 class. Net energy metering and co-energy metering customers shall
24 not be exempt from the public goods charges imposed pursuant to
25 Article 7 (commencing with Section 381), Article 8 (commencing
26 with Section 385), or Article 15 (commencing with Section 399)
27 of Chapter 2.3 of Part 1.

28 (l) A net energy metering, co-energy metering, or wind energy
29 co-metering customer shall reimburse the Department of Water
30 Resources for all charges that would otherwise be imposed on the
31 customer by the commission to recover bond-related costs pursuant
32 to an agreement between the commission and the Department of
33 Water Resources pursuant to Section 80110 of the Water Code,
34 as well as the costs of the department equal to the share of the
35 department's estimated net unavoidable power purchase contract
36 costs attributable to the customer. The commission shall
37 incorporate the determination into an existing proceeding before
38 the commission, and shall ensure that the charges are
39 nonbypassable. Until the commission has made a determination
40 regarding the nonbypassable charges, net energy metering,

1 co-energy metering, and wind energy co-metering shall continue
2 under the same rules, procedures, terms, and conditions as were
3 applicable on December 31, 2002.

4 (m) In implementing the requirements of subdivisions (k) and
5 (l), an eligible customer-generator shall not be required to replace
6 its existing meter except as set forth in paragraph (1) of subdivision
7 (c), nor shall the electric utility require additional measurement of
8 usage beyond that which is necessary for customers in the same
9 rate class as the eligible customer-generator.

10 (n) It is the intent of the Legislature that the Treasurer
11 incorporate net energy metering, including net surplus electricity
12 compensation, co-energy metering, and wind energy co-metering
13 projects undertaken pursuant to this section as sustainable building
14 methods or distributive energy technologies for purposes of
15 evaluating low-income housing projects.

16 *SEC. 49. Section 9600 of the Public Utilities Code is amended*
17 *to read:*

18 9600. (a) It is the intent of the Legislature that California's
19 local publicly owned electric utilities and electric corporations
20 should commit control of their transmission facilities to the
21 Independent System Operator as described in Chapter 2.3
22 (commencing with Section 330) of Part 1 of Division 1. These
23 utilities should jointly advocate to the Federal Energy Regulatory
24 Commission a pricing methodology for the Independent System
25 Operator that results in an equitable return on capital investment
26 in transmission facilities for all Independent System Operator
27 participants and is based on the following principles:

28 (1) Utility specific access charge rates as proposed in Docket
29 No. EC96-19-000 as finally approved by the Federal Energy
30 Regulatory Commission reflecting the costs of that utility's
31 transmission facilities shall go into effect on the first day of the
32 Independent System Operator operation. The utility specific rates
33 shall honor all of the terms and conditions of existing transmission
34 service contracts and shall recognize any wheeling revenues of
35 existing transmission service arrangements to the transmission
36 owner.

37 (2) (A) No later than two years after the initial operation of the
38 Independent System Operator, the Independent System Operator
39 shall recommend for adoption by the Federal Energy Regulatory
40 Commission a rate methodology determined by a decision of the

1 Independent System Operator governing board, provided that the
2 decision shall be based on principles approved by the governing
3 board including, but not limited to, an equitable balance of costs
4 and benefits, and shall define the transmission facility costs, if
5 any, which shall be rolled in to the transmission service rate and
6 spread equally among all Independent System Operator
7 transmission users, and those transmission facility costs, if any,
8 which should be specifically assigned to a specific utility's service
9 area.

10 (B) If there is no governing board decision, the rate methodology
11 shall be determined following a decision by the alternative dispute
12 resolution method set forth in the Independent System Operator
13 bylaws.

14 (C) If no alternative dispute resolution decision is rendered,
15 then a default rate methodology shall be a uniform regional
16 transmission access charge and a utility specific local transmission
17 access charge, provided that the default rate methodology shall be
18 recommended for implementation upon termination of the cost
19 recovery plan ~~set forth in Section 368~~ or no later than two years
20 after the initial operation of the Independent System Operator,
21 whichever is later. For purposes of this paragraph, regional
22 transmission facilities are defined to be transmission facilities
23 operating at or above 230 kilovolts plus an appropriate percentage
24 of transmission facilities operating below 230 kilovolts; all other
25 transmission facilities shall be considered local. The appropriate
26 percentage of transmission facilities described above shall be
27 consistent with the guidelines in Federal Energy Regulatory
28 Commission Order No. 888 and any exception approved by that
29 commission.

30 (3) If the rate methodology implemented as a result of a decision
31 by the Independent System Operator governing board or resulting
32 from the ~~independent system operator~~ *Independent System*
33 *Operator* alternative dispute resolution process results in rates
34 different than those in effect prior to the decision for any
35 transmission facility owner, the amount of any differences between
36 the new rates and the prior rates shall be recorded in a tracking
37 account to be recovered from customers and paid to the appropriate
38 transmission owners by the transmission facility owner after
39 termination of the cost recovery plan set forth in Section 368. The
40 recovery and payments shall be based on an amortization period

1 not to exceed three years in the case of the electrical corporations
2 or five years in the case of the local publicly owned electric
3 utilities.

4 (4) The costs of transmission facilities placed in service after
5 the date of initial implementation of the Independent System
6 Operator shall be recovered using the rate methodology in effect
7 at the time the facilities go into operation.

8 (5) The electrical corporations and the local publicly owned
9 electric utilities shall jointly develop language for implementation
10 proposals to the Federal Energy Regulatory Commission based on
11 these principles.

12 (6) Nothing in this section shall compel any party to violate
13 restrictions applicable to facilities financed with tax-exempt bonds
14 or contractual restrictions and covenants regarding use of
15 transmission facilities existing as of December 20, 1995.

16 (b) Following a final Federal Energy Regulatory Commission
17 decision approving the Independent System Operator, no California
18 electrical corporation or local publicly owned electric utility shall
19 be authorized to collect any competition transition charge
20 authorized pursuant to this division and Chapter 2.3 (commencing
21 with Section 330) of Part 1 of Division 1 unless it commits control
22 of its transmission facilities to the Independent System Operator.

23 *SEC. 50. Section 9607 of the Public Utilities Code is amended*
24 *to read:*

25 9607. (a) The intent of this section is to avoid cost-shifting to
26 customers of an electrical corporation resulting from the transfer
27 of distribution services from an electrical corporation to an
28 irrigation district.

29 (b) Except as otherwise provided in this section and Section
30 9608, and notwithstanding any other provision of law, an irrigation
31 district that offered electric service to retail customers as of January
32 1, 1999, may not construct, lease, acquire, install, or operate
33 facilities for the distribution or transmission of electricity to retail
34 customers located in the service territory of an electrical
35 corporation providing electric distribution services, unless the
36 district has first applied for and received the approval of the
37 commission and implements its service consistent with the
38 commission's order. The commission shall find that service to be
39 in the public interest and shall approve the request of a district to
40 provide distribution or transmission of electricity to retail customers

1 located in the service territory of an electrical corporation providing
2 electric distribution service if, after notice and hearing, the
3 commission determines all of the following:

4 (1) The district will provide universal service to all retail
5 customers who request service within the area to be served, at
6 published tariff rates and on a just, reasonable, and
7 nondiscriminatory basis, comparable to that provided by the current
8 retail service provider.

9 (2) If the area the district is proposing to serve is either of the
10 following:

11 (A) Is within the district’s boundaries but less than the entire
12 district, the area to be served includes a percentage of residential
13 customers and small customers, based on load, comparable to the
14 percentage of residential and small customers in the district, based
15 on load.

16 (B) Includes territory outside the district’s boundaries, in which
17 case the territory outside the district’s boundaries must include a
18 percentage of residential customers and small customers, based
19 on load, comparable to the percentage of residential and small
20 customers in the county or counties where service is to be provided,
21 based on load.

22 (3) Service by the district will be consistent with the intent of
23 the state to avoid economic waste caused by duplication of facilities
24 as set forth in Section 8101.

25 (4) Service by the district will include reasonable mitigation of
26 any adverse effects on the reliability of an existing service by the
27 electrical corporation.

28 (5) The district has established, funded, and is carrying out
29 public purpose and low-income programs comparable to those
30 provided by the current electric retail service provider.

31 (6) That district’s tariffed electric rates, exclusive of commodity
32 costs, will be at least 15 percent below the tariffed electric rates,
33 exclusive of commodity costs and ~~nonbypassable charges under~~
34 ~~Sections 367, 368, 375, 376, and 379, competition transition~~
35 ~~charges~~ of the electrical corporation for comparable services.

36 (7) Service by the district is in the public interest.

37 (c) An irrigation district that obtains the approval of the
38 commission under this section to serve an area shall prepare an
39 annual report available to the public on the total load and number
40 of accounts of residential, low-income, agricultural, commercial,

1 and industrial customers served by the irrigation district in the
2 approved service area.

3 (d) The commission shall have jurisdiction to resolve and
4 adjudicate complaint cases brought against an irrigation district
5 that offered electric service to retail customers as of January 1,
6 1999, by an interested party where the complaint concerns retail
7 electric service outside the boundaries of the district and within
8 the service territory of an electrical corporation. Nothing in this
9 section grants the commission jurisdiction to adjudicate complaint
10 cases involving retail electric service by an irrigation district inside
11 its boundaries or inside an irrigation district's exclusive service
12 territory.

13 (e) Any project involving electric transmission or distribution
14 facilities to be constructed or installed by an irrigation district to
15 serve retail customers located in the service territory of an electrical
16 corporation providing electric distribution services shall comply
17 with the California Environmental Quality ~~Act~~, *Act* (Division 13
18 (commencing with Section 21000)) of the Public Resources Code.
19 The county in which the construction or installation is to occur
20 shall act as the lead agency. If a project involves the construction
21 or installation of electric transmission or distribution facilities in
22 more than one county, the county where the majority of the
23 construction is anticipated to occur shall act as the lead agency.

24 (f) An irrigation district may not offer service to customers
25 outside of its district boundaries before offering service to all
26 customers within its district boundaries.

27 (g) This section does not apply to electric distribution service
28 provided by Modesto Irrigation District to those customers or
29 within those areas described in subdivisions (a), (b), and (c) of
30 Section 9610.

31 (h) The provisions of this section shall not apply to (1) a
32 cumulative 90 megawatts of load served by the Merced Irrigation
33 District that is located within the boundaries of Merced Irrigation
34 District, as those boundaries existed on December 20, 1995,
35 together with the territory of Castle Air Force Base which was
36 located outside the ~~District~~ *district* on that date, or (2) electric load
37 served by the ~~District~~ *district* which was not previously served by
38 an electric corporation that is located within the boundaries of
39 Merced Irrigation District, as those boundaries existed on

1 December 20, 1995, together with the territory of Castle Air Force
2 Base which was located outside the ~~District~~ *district* on that date.

3 (i) For purposes of this section, a megawatt of load shall be
4 calculated in accordance with the methodology established by the
5 ~~California Energy Resource Conservation and Development~~ *Energy*
6 Commission in its Docket No. 96-IRR-1890, but the 90 megawatts
7 shall not include electrical usage by customers that move to the
8 areas described in paragraph (1) after December 31, 2000.

9 (j) Subdivision (a) of this section shall not apply to the
10 construction, modification, lease, acquisition, installation, or
11 operation of facilities for the distribution or transmission of
12 electricity to customers electrically connected to a district as of
13 December 31, 2000, or to other customers who subsequently locate
14 at the same premises.

15 (k) In recognition of contractual arrangements and settlements
16 existing as of June 1, 2000, this section does not apply to the
17 acquisition or operation of the electric distribution facilities that
18 are the subject of the Settlement Agreement dated May 1, 2000,
19 between Pacific Gas and Electric Company and the San Joaquin
20 Irrigation District.

21 (l) For purposes of this section, retail customers do not include
22 an irrigation district's own electric load being served of retail by
23 an electrical corporation.

24 *SEC. 51. Section 31071.5 of the Streets and Highways Code*
25 *is amended to read:*

26 31071.5. (a) Bonds issued under this chapter may not be
27 deemed to constitute a debt or liability of the state or of any
28 political subdivision thereof, other than the bank, or a pledge of
29 the faith and credit of the state or of any political subdivision
30 thereof, but shall be payable solely from the account, and the assets
31 of the account, and the security provided by the account. All bonds
32 issued under this chapter shall contain on the face of the bonds a
33 statement to this effect.

34 (b) Notwithstanding any other provision of law, Article 3
35 (commencing with Section ~~63040~~) of, Article 4 (commencing with
36 ~~63042~~) of, 63040) and Article 5 (commencing with Section 63043)
37 of Chapter 2 of Division 1 of Title 6.7 of the Government Code
38 do not apply to any financing provided by the bank to, or at the
39 request of, the department in connection with the account.

1 SECTION 1. ~~Section 30009 is added to the Penal Code, to read:~~
2 ~~30009. (a) In order to reduce the number of firearms possessed~~
3 ~~by prohibited persons listed in the Prohibited Armed Persons File,~~
4 ~~a 30-day amnesty period shall be established, commencing on a~~
5 ~~date to be determined by the Department of Justice but not later~~
6 ~~than January 1, 2015, during which a person prohibited from~~
7 ~~possessing a firearm may surrender his or her firearms to a local~~
8 ~~law enforcement agency without being charged with illegal~~
9 ~~possession of firearms, as provided in subdivision (c). No person~~
10 ~~convicted of a felony shall be permitted to participate in the~~
11 ~~amnesty period.~~

12 ~~(b) The department shall provide written notification of the~~
13 ~~amnesty period to all prohibited persons eligible to participate in~~
14 ~~the amnesty period by first-class mail no later than 60 calendar~~
15 ~~days prior to the commencement of the amnesty period. The~~
16 ~~notification shall specify the firearms possessed by the prohibited~~
17 ~~person and provide instructions for the surrender of the illegal~~
18 ~~firearms.~~

19 ~~(c) For each instance in which a local law enforcement agency~~
20 ~~receives a firearm from a prohibited person during the amnesty~~
21 ~~period described in subdivision (a), the agency shall submit to the~~
22 ~~department the following information:~~

23 ~~(1) The name of the prohibited person who surrendered the~~
24 ~~firearm.~~

25 ~~(2) The person's date of birth.~~

26 ~~(3) A description of the firearm or firearms surrendered.~~

27 ~~(4) The serial number of the firearm or firearms surrendered.~~

28 ~~(5) Any other information deemed necessary by the department.~~

29 ~~(d) The department shall enter the information received pursuant~~
30 ~~to subdivision (c) in the Prohibited Armed Persons File to create~~
31 ~~a record of each firearm surrendered during the amnesty period.~~

32 ~~(e) A prohibited person who surrenders a firearm pursuant to~~
33 ~~subdivision (a) shall not be charged with illegal possession of~~
34 ~~firearms for any firearm the department has on record as having~~
35 ~~been surrendered pursuant to subdivision (d).~~

36 ~~(f) At the expiration of the 30-day amnesty period described in~~
37 ~~subdivision (a), a person prohibited from possessing a firearm and~~
38 ~~eligible to participate in the amnesty program who still maintains~~
39 ~~possession of his or her firearms shall be subject to a civil fine of~~
40 ~~up to two thousand five hundred dollars (\$2,500) per firearm in~~

1 addition to any criminal penalties authorized by law, including,
2 but not limited to, penalties described in Chapter 3 (commencing
3 with Section 29900) of this code and Sections 8100 and 8103 of
4 the Welfare and Institutions Code.

5 (g) A prohibited person shall not to be charged with illegal
6 possession of a firearm, nor be subject to the fine described in
7 subdivision (f), if he or she provides evidence satisfactory to the
8 department that he or she lawfully surrendered his or her firearm
9 prior to the commencement of the amnesty period.

10 (h) Any firearms surrendered to a local law enforcement agency
11 pursuant to this section shall be sold or destroyed as provided in
12 Section 18005.

13 (i) Sections 26500 and 27545, and subdivision (a) of Section
14 31615, shall not apply to the surrender of firearms to a local law
15 enforcement agency pursuant to this section.

16 SEC. 2. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.